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CHILD ABUSE PREVENTION AND TREATMENT ACT

Legislative Authority:

Child Abuse Prevention and Treatment Act, as amended

U.S. Code Citation:

42 USC 5101 **et seq**; 42 USC 5116 **et seq**

ACF Regulations:

45 CFR 1340

Summary of Legislative History:

The Child Abuse Prevention and Treatment Act (CAPTA) was originally enacted in P.L. 93-247. The law was completely rewritten in the Child Abuse Prevention, Adoption and Family Services Act of 1988 (P.L. 100-294, 4/25/88). It was further amended by the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (P.L. 101-126, 10/25/89) and the Drug Free School Amendments of 1989 (P.L. 101-226, 12/12/89).

The Community-Based Child Abuse and Neglect Prevention Grants program was originally authorized by sections 402 through 409 of the Continuing Appropriations Act for FY 1985 (P.L. 98-473, 10/12/84). The Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (P.L. 101-126) transferred this program to the Child Abuse Prevention and Treatment Act, as amended.

A new title III, Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness, was added to the Child Abuse and Neglect Prevention and Treatment Act by the Stewart B. McKinney Homeless Assistance Act Amendments of 1990 (P.L. 101-645, 11/29/90).

The Child Abuse Prevention and Treatment Act was amended and reauthorized by the Child

Abuse, Domestic Violence, Adoption, and Family Services Act of 1992 (P.L. 102-295, 5/28/92) and amended by the Juvenile Justice and Delinquency Prevention Act Amendments of 1992 (P.L. 102-586, 11/4/92).

The Act was amended by the Older American Act Technical Amendments of 1993 (P.L. 103-171, 12/2/93) and the Human Services Amendments of 1994 (P.L. 103-252, 5/19/94).

CAPTA was further amended by the Child Abuse Prevention and Treatment Act Amendments of 1996 (P.L. 104-235, 10/3/96), which amended Title I, replaced the Title II Community-Based Family Resource Centers program with a new Community-Based Family Resource and Support Program and repealed Title III, Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness.

CHILD ABUSE PREVENTION AND TREATMENT ACT

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SEC. 1. SHORT TITLE.

This Act may be cited as the " Child Abuse Prevention and Treatment Act. "

SEC. 2. FINDINGS.

Congress finds that--

1. each year, close to 1,000,000 American children are victims of abuse and neglect;
2. many of these children and their families fail to receive adequate protection or treatment;
3. the problem of child abuse and neglect requires a comprehensive approach that--
 - A. integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;
 - B. strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;
 - C. emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;
 - D. ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and
 - E. is sensitive to ethnic and cultural diversity;
4. the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of thousands of children and results in a cost to the Nation of billions of dollars in tangible expenditures, as well as significant intangible costs;
5. all elements of American society have a shared responsibility in responding to this national child and family emergency;
6. substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;
7. national policy should strengthen families to prevent child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;
8. the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, safety, self-respect, and dignity of the child;
9. because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;
10. the Federal government should assist States and communities with the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy;
11. the Federal government should provide leadership and assist communities in their child and family protection efforts by--
 - A. promoting coordinated planning among all levels of government;

- B. generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;
- C. strengthening the capacity of States to assist communities;
- D. allocating financial resources to assist States in implementing community plans;
- E. helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and
- F. providing leadership to end the abuse and neglect of the nation's children and youth.



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TITLE I -- GENERAL PROGRAM

SEC. 101 OFFICE ON CHILD ABUSE AND NEGLECT. [42 U.S.C. 5101]

- a. **ESTABLISHMENT.**--The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.
- b. **PURPOSE.**--The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT. [42 U.S.C. 5102]

- a. **APPOINTMENT.**--The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.
- b. **SOLICITATION OF NOMINATIONS.**--The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).
- c. **COMPOSITION.**--In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent--
 1. law (including the judiciary);
 2. psychology (including child development);

3. social services (including child protective services);
 4. medicine (including pediatrics);
 5. State and local government;
 6. organizations providing services to disabled persons;
 7. organizations providing services to adolescents;
 8. teachers;
 9. parent self-help organizations;
 10. parents' groups;
 11. voluntary groups;
 12. family rights groups; and
 13. children's rights advocates.
- d. VACANCIES.--Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.
- e. ELECTION OF OFFICERS.--The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.
- f. DUTIES.--Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing--
1. recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;
 2. specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and
 3. recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.

NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE

Sec. 103. [42 U.S.C. 5104]

- a. ESTABLISHMENT.--The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.
- b. FUNCTIONS.--The Secretary shall, through the clearinghouse established by subsection (a)-

1. maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect; and
 2. maintain and disseminate information relating to--
 - A. the incidence of cases of child abuse and neglect in the United States;
 - B. the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and
 - C. the incidence of any such cases related to alcohol or drug abuse.
- c. COORDINATION WITH AVAILABLE RESOURCES.--
1. IN GENERAL.--In establishing a national clearinghouse as required by subsection (a), the Secretary shall--
 - A. consult with other Federal agencies that operate similar clearinghouses;
 - B. consult with the head of each agency involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses on the development of the components for information collection and management of such clearinghouse;
 - C. develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing Federal, State, regional, and local child welfare data systems which shall include--
 - i. standardized data on false, unfounded, unsubstantiated, and substantiated reports; and
 - ii. information on the number of deaths due to child abuse and neglect;
 - D. through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;
 - E. compile, analyze, and publish a summary of the research conducted under section 105(a)¹; and
 - F. solicit public comment on the components of such clearinghouse.
 2. CONFIDENTIALITY REQUIREMENT.--In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.

RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES

Sec. 104. [42 U.S.C. 5105]

a. RESEARCH.--

1. TOPICS.-- The Secretary shall, in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on--

- A. the nature and scope of child abuse and neglect;
- B. causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;
- C. appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and
- D. the national incidence of child abuse and neglect, including--
 - i. the extent to which incidents of child abuse are increasing or decreasing in number and severity;
 - ii. the incidence of substantiated and unsubstantiated reported child abuse cases;
 - iii. the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;
 - iv. the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;
 - v. the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;
 - vi. the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;
 - vii. the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;
 - viii. the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and
 - ix. the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system.

2. PRIORITIES.--

- A. The Secretary shall establish research priorities for making grants or contracts

for purposes of carrying out paragraph (1).

- B. In establishing research priorities as required by subparagraph (A), the Secretary shall--
- i. publish proposed priorities in the Federal Register for public comment; and
 - ii. allow not less than 60 days for public comment on such proposed priorities.

b. PROVISION OF TECHNICAL ASSISTANCE.--

1. IN GENERAL.--The Secretary shall provide technical assistance to State and local public and non-profit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing and carrying out programs and activities relating to the prevention, assessment, identification, and treatment of child abuse and neglect.
2. EVALUATION.--Such technical assistance may include an evaluation or identification of--
 - A. various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;
 - B. ways to mitigate psychological trauma to the child victim; and
 - C. effective programs carried out by the States under titles I and II.
3. DISSEMINATION.--The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to--
 - A. individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and
 - B. appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.

c. AUTHORITY TO MAKE OR ENTER INTO CONTRACTS.--

1. IN GENERAL.--The functions of the Secretary under this section may be carried out either directly or through grant or contract.
2. DURATION.--Grants under this section shall be made for periods of not more than 5 years.
3. PREFERENCE FOR LONG-TERM STUDIES.--In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

d. PEER REVIEW FOR GRANTS.--

1. ESTABLISHMENT OF PEER REVIEW PROCESS.--

- A. The Secretary shall, in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this section and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.
- B. In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration on Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.

2. REVIEW OF APPLICATIONS FOR ASSISTANCE.-- Each peer review panel established under paragraph (1)(A) that reviews any application for a grant shall--

- A. determine and evaluate the merit of each project described in such application;
- B. rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and
- C. make recommendations to the Secretary concerning whether the application for the project shall be approved. The Secretary shall award grants under this section on the basis of competitive review.

3. NOTICE OF APPROVAL.--

- A. The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.
- B. In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under paragraph (2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under paragraph (2)(B).

GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS
FOR DEMONSTRATION PROGRAMS AND PROJECTS

Sec. 105. [42 U.S.C. 5106]

- a. DEMONSTRATION PROGRAMS AND PROJECTS.--The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:

1. TRAINING PROGRAMS.--The Secretary may award grants to public or private nonprofit organizations under this section--
 - A. for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;
 - B. to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and
 - C. for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.
2. MUTUAL SUPPORT PROGRAMS.--The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.
3. OTHER INNOVATIVE PROGRAMS AND PROJECTS.--
 - A. IN GENERAL.--The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that--
 - i. accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;
 - ii. provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and
 - iii. provides further investigation and intensive intervention where the child's safety is in jeopardy.
 - B. KINSHIP CARE.--The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.
 - C. PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.--The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments--

- i. for court-ordered supervised visitation between children and abusing parents; and
 - ii. to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.
- b. DISCRETIONARY GRANTS.--In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:
 1. Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.
 2. Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.
 3. Respite and crisis nursery programs provided by community-based organizations.
 - A. Providing hospital-based information and referral services to--
 - i. parents of children with disabilities; and
 - ii. children who have been neglected or abused and their parents.
 - B. Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved--
 - i. upon the birth or admission of a child with disabilities; and
 - ii. upon the treatment of a child for abuse or neglect.
 - C. Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of--
 - i. the provision of notice to parents that information relating to community services is available;
 - ii. the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;
 - iii. the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;
 - iv. the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and
 - v. where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

- D. For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that--
- i. is in a combination with--
 - I. a health-care provider organization;
 - II. a child welfare organization;
 - III. a disability organization; and
 - IV. a State child protection agency;
 - ii. submits an application for a grant under this paragraph that is approved by the Secretary;
 - iii. maintains an office in the hospital involved for purposes of providing services under such grant;
 - iv. provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and
 - v. assumes legal responsibility for carrying out the terms and conditions of the grant.
- E. In awarding grants under this paragraph, the Secretary shall -
- i. give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in a rural setting; and
 - ii. encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

4. Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

- c. **EVALUATION.**--In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS

SEC. 106. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS. [42 U.S.C. 5106a]

- a. **DEVELOPMENT AND OPERATION GRANTS.**--The Secretary shall make grants to the

States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in--

1. the intake, assessment, screening, and investigation of reports of abuse and neglect;
 - A. creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and
 - B. improving legal preparation and representation, including--
 - i. procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and
 - ii. provisions for the appointment of an individual appointed to represent a child in judicial proceedings;
2. case management and delivery of services provided to children and their families;
3. enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;
4. developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;
5. developing and facilitating training protocols for individuals mandated to report child abuse or neglect;
6. developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;
7. developing, implementing, or operating--
 - A. information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for--
 - i. professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and
 - ii. the parents of such infants; and
 - B. programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including--
 - i. existing social and health services;
 - ii. financial assistance; and
 - iii. services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

8. developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

b. ELIGIBILITY REQUIREMENTS.--

1. STATE PLAN.--

- A. IN GENERAL.--To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.
- B. ADDITIONAL REQUIREMENT.--After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

2. COORDINATION.--A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including--

- A. an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes--
 - i. provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;
 - ii. procedures for the immediate screening, safety assessment, and prompt investigation of such reports;
 - iii. procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;
 - iv. provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;
 - v. methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to--
 - I. individuals who are the subject of the report;
 - II. Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out

- its responsibilities under law to protect children from abuse and neglect;
- III. child abuse citizen review panels;
 - IV. child fatality review panels;
 - V. a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and
 - VI. other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;
- vi. provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;
 - vii. the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;
 - viii. provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;
 - ix. provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings--
 - I. to obtain first-hand, a clear understanding of the situation and needs of the child; and
 - II. to make recommendations to the court concerning the best interests of the child;
 - x. the establishment of citizen review panels in accordance with subsection (c);
 - xi. provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section--
 - I. for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and
 - II. by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

- xii. provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction--
 - I. to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;
 - II. to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;
 - III. to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or
 - IV. to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and
 - xiii. an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);
- B. an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for--
- i. coordination and consultation with individuals designated by and within appropriate health-care facilities;
 - ii. prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and
 - iii. authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;
- C. a description of--
- i. the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

- ii. the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and
 - iii. the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and
 - D. an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.
 - 3. **LIMITATION.**--With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.
 - 4. **DEFINITIONS.**--For purposes of this subsection--
 - A. the term " near fatality" means an act that, as certified by a physician, places the child in serious or critical condition; and
 - B. the term " serious bodily injury " means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- c. **CITIZEN REVIEW PANELS.**--
- 1. **ESTABLISHMENT.**--
 - A. **IN GENERAL.**--Except as provided in subparagraph(B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.
 - B. **EXCEPTIONS.**--
 - i. **ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.**--A State that receives the minimum allotment of \$175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.
 - ii. **DESIGNATION OF EXISTING ENTITIES.**--A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.
 - 2. **MEMBERSHIP.**--Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

3. MEETINGS.--Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

4. FUNCTIONS.--

A. IN GENERAL.--Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with--

i. the State plan under subsection (b);

ii. the child protection standards set forth in subsection (b)²; and

iii. any other criteria that the panel considers important to ensure the protection of children, including--

I. a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and

II. a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

B. CONFIDENTIALITY.--

i. IN GENERAL.--The members and staff of a panel established under paragraph (1)--

I. shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

II. shall not make public other information unless authorized by State statute.

ii. CIVIL SANCTIONS.--Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

5. STATE ASSISTANCE.--Each State that establishes a panel pursuant to paragraph (1)--

A. shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

B. shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

6. REPORTS.--Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.

d. ANNUAL STATE DATA REPORTS.--Each State to which a grant is made under this section

shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

1. The number of children who were reported to the State during the year as abused or neglected.
2. Of the number of children described in paragraph (1), the number with respect to whom such reports were--
 - A. substantiated;
 - B. unsubstantiated; or
 - C. determined to be false.
3. Of the number of children described in paragraph (2)--
 - A. the number that did not receive services during the year under the State program funded under this section or an equivalent State program;
 - B. the number that received services during the year under the State program funded under this section or an equivalent State program; and
 - C. the number that were removed from their families during the year by disposition of the case.
4. The number of families that received preventive services from the State during the year.
5. The number of deaths in the State during the year resulting from child abuse or neglect.
6. Of the number of children described in paragraph (5), the number of such children who were in foster care.
7. The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.
8. The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
9. The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.
10. The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.
11. The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.
12. The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

- A. individuals representing the law enforcement community;
 - B. judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);
 - C. child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;
 - D. health and mental health professionals;
 - E. individuals representing child protective service agencies;
 - F. individuals experienced in working with children with disabilities; and
 - G. representatives of parents' groups.
2. EXISTING TASK FORCE.--As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for the purposes of this subsection.
- d. STATE TASK FORCE STUDY.--Before a State receives assistance under this section, at three year intervals thereafter, the State task force shall comprehensively--
1. review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and
 2. make policy and training recommendations in each of the categories described in subsection (e). The task force may make such other comments and recommendations as are considered relevant and useful.
- e. ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.--
1. GENERAL RULE.--Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories--
 - A. investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;
 - B. experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children, and which also ensure procedural fairness to the accused;

and

- C. reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.
2. EXEMPTION.--As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if--
- A. the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or
 - B. the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.
- f. FUNDS AVAILABLE.--For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE

Sec. 108. [42 U.S.C. 5106d]

a. CONSTRUCTION OF FACILITIES.--

- 1. RESTRICTION ON USE OF FUNDS.--Assistance provided under this Act may not be used for construction of facilities.
 - 2. LEASE, RENTAL OR REPAIR.--The Secretary may authorize the use of funds received under this Act--
 - A. where adequate facilities are not otherwise available, for the lease or rental of facilities; or
 - B. for the repair or minor remodeling or alteration of existing facilities.
- b. GEOGRAPHICAL DISTRIBUTION.--The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.
- c. LIMITATION.--No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS

Sec. 109. [42 U.S.C. 5106e]

The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

REPORTS

Sec. 110. [42 U.S.C. 5106f]

- a. COORDINATION OF EFFORTS.--Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.
- b. EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.--Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of assisted programs in achieving the objectives of section 107.

DEFINITIONS

Sec. 111. [42 U.S.C. 5106g] For purposes of this title--

1. the term " child " means a person who has not attained the lesser of--
 - A. the age of 18; or
 - B. except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;
2. the term " child abuse and neglect " means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;
3. the term " Secretary " means the Secretary of Health and Human Services;
4. the term " sexual abuse " includes -
 - A. the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or
 - B. the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
5. the term " State " means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;
6. the term " withholding of medically indicated treatment " means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such

conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment--

- A. the infant is chronically and irreversibly comatose;
- B. the provision of such treatment would--
 - i. merely prolong dying;
 - ii. not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or
 - iii. otherwise be futile in terms of the survival of the infant; or
- C. the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

AUTHORIZATION OF APPROPRIATIONS

Sec. 112. [42 U.S.C. 5106h]

a. IN GENERAL.--

- 1. GENERAL AUTHORIZATION.--There are authorized to be appropriated to carry out this title, \$100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.
- 2. DISCRETIONARY ACTIVITIES.--
 - A. IN GENERAL.--Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.
 - B. DEMONSTRATION PROJECTS.--Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.

- b. AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.-- The Secretary shall ensure that funds appropriated pursuant to authorizations in this title shall remain available until expended for the purposes for which they were appropriated.

SEC. 113. RULE OF CONSTRUCTION. [42 U.S.C. 5106i]

a. IN GENERAL.--Nothing in this Act shall be construed--

- 1. as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and
- 2. to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

- b. **STATE REQUIREMENT.**--Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

ENDNOTES

¹ Section 105(a) is cited here in error and should be understood as section 104(a). ²Subsection (b) is cited here in error as there are no child protection standards in subsection (b). ³Section 107(b) is cited here in error and should be understood as section 106(b).



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