

Arkansas Legislative Task Force
on Abused and Neglected
Children

An Overview of
Child Maltreatment

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World Perspectives on Child
Abuse

- "Relatively few countries keep records of child maltreatment reports, and every country struggles with prevention of abuse and neglect, identification of cases, and intervention on behalf of children." p. 3.
- The Fifth International Resource Book published by the International Society for Prevention of Child Abuse and Neglect, prepared by the Kempe Children's Center

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Arkansas Child Maltreatment

- "Child Maltreatment" means
 - Abuse
 - Sexual abuse
 - Neglect
 - Sexual Exploitation
 - Abandonment
 - Ark. Code Ann. 12-12-503(6)

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Child Maltreatment Hotline
1-800-482-5964

- Operated by Ark. State Police since 1997
- 26 budgeted hotline operator positions
- 22 hotline operator positions currently filled

	Calls to Hotline	Allegations Accepted
■ 2003	32,293	20,220
■ 2004	34,775	22,192

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Arkansas Child Maltreatment
Investigations

- Arkansas State Police
 - Abuse with a Deadly Weapon
 - Bone Fractures
 - Brain damage/skull fracture
 - Cuts, bruises & welts/Age 3 and under*
 - Death
 - Failure to Protect*
- *DHHS/CFS also investigates

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Arkansas Child Maltreatment
Investigations

- Arkansas State Police
 - Immersion
 - Indecent Exposure
 - Internal injuries
 - Poison/Noxious Substances
 - Pornography/Exposure to Live Sex Act
 - Sex (oral)
 - Sexual Contact
 - Sexual Exploitation

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Arkansas Child Maltreatment Investigations

- Arkansas State Police
 - Sexual Penetration
 - Subdural Hematoma
 - Suffocation or Interfering with Breathing
 - Any investigation when foster parent or foster child named as alleged offender or under-aged juvenile aggressor, or when incident occurs in an HDC or DYS facility

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Arkansas State Police

- Investigations Sub Rate
- 2003 5,617 41.5%
- 2004 5,859 43.8%
- 63 budgeted positions
- 61 filled positions
- 146 cases referred to CID in 2004

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DHHS/Division of Children & Family Services

- Investigations Sub Rate
- 2003 14,720 23.66%
- 2004 15,149 21.31%
- Investigates all allegations not assigned to Ark. State Police
- Health & Safety Assessment on all children in all investigations

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Arkansas Reports by Source

	CY 2003	CY 2004
Education	3295	3261
Relative	2550	2313
Law Enforcement	2183	1960
Parent/PRFC	1353	1736
Neighbor/Friend	1679	1429
Medical	1446	1405
Mental Health	1184	1235
Social Services	1661	1009

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Arkansas Child Maltreatment Investigations

- Calendar Year 2004
 - 20,555 Investigations Completed
 - 5,551 "True" Findings (27%)
 - 13,972 Unsubstantiated
 - 13 Exempted (Religious Reasons)
 - 92 Exempted (Under-aged Juvenile Aggressor)
 - 927 Unable to Locate

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Types of Maltreatment

- 5,551 True Reports in CY 2004
 - 2,405 Neglect
 - 1,724 Sexual Abuse
 - 1,002 Abuse
 - 216 Abuse & Neglect
 - 140 Neglect & Sexual Abuse
 - 48 Abuse & Sexual Abuse
 - 16 Abuse, Neglect & Sexual Abuse

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Victims of Child Maltreatment

- 7,823 Victims in Calendar Year 2004
 - 829 Under Two Years
 - 1,809 Two to Five
 - 2,481 Six to Eleven
 - 2,021 Twelve to Fifteen
 - 580 Sixteen & Over
 - 103 Unknown

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Victims

- 7,823 Victims in Calendar Year 2004
 - 4,414 Female, 3,404 Male
 - 5,820 White
 - 1,573 Black
 - 341 Multiple Race
 - 14 Asian

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Child Maltreatment & Gender

- 7,232 Victims in Calendar Year 2003
 - Girls – 332,773 in General Population
 - 4,162 Victims of Child Maltreatment
 - 12.5 Rate
 - 57.6%
 - Boys – 349,240 in General Population in AR
 - 3,065 Victims of Child Maltreatment
 - 8.8 Rate
 - 42.4%

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Child Maltreatment & Race

- 7,232 Victims in Calendar Year 2003

Population	Victims	Rate	Race
■ 142,818	1,553	10.9	Black
■ 480,334	4,998	10.4	White
■ 11,648	316	27.1	Mixed
■ 36,570	310	8.5	Hispan.
■ 600	4	6.7	Pac.Isl.
■ 4,599	15	3.3	Am. In.

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Arkansas Child Maltreatment Victims

	General Population	Victims	Rate
■ 1999	660,224	7,564	11.5
■ 2000	680,571	7,479	11.0
■ 2001	680,618	6,927	10.2
■ 2002	677,522	7,302	10.8
■ 2003	682,013	7,232	10.6
■ 2004		7,823	

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Maltreatment of Children in Foster Care

- Children in Foster Care Maltreated by Foster Care Provider
 - 2000 0.17%
 - 2001 0.26%
 - 2002 0.26%
 - 2003 0.25%

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Disposition of Victims in 2003

- 7,232 Victims
- 1,740 (24.1%) Victims Removed from Home
- 653 (1.7%) Non-Victims Removed from Home

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Victims Removed from Home in 2003

- 1,740 Victims Removed from Home in 2003
 - 249 14.3% Physical Abuse only
 - 1,065 61.2% Neglect only
 - 132 7.6% Sexual Abuse only
 - 27 1.6% Psychological Mal only
 - 267 15.3 Multiple Types Mal

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Federal and State Laws Pertaining to Child Maltreatment

- Federal Law: 42 U.S.C. 5101 et seq. & 42 U.S.C. 5116 et seq. (CAPTA)
- Federal Regulations: 45 C.F.R. 1340
- State Law: Ark. Code Ann. 12-12-501 to 12-12-519

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Child Abuse Prevention & Treatment Act (CAPTA)

- Originally enacted in 1974, funding \$15 million
- Established National Clearinghouse for Information Relating to Child Abuse
- <http://nccanch.acf.hhs.gov>
- Have statistics, publications, state statutes, manuals & guides

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CAPTA Law

- National data collection on child maltreatment
- 2003 Child Maltreatment national statistics available at <http://www.acf.hhs.gov/programs/cb/publications/cmreports.htm>
- Secretary provides technical assistance to states in planning, improving, developing and carrying out programs and activities related to prevention, assessment, identification and treatment of child abuse and neglect

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CAPTA Law

- Each state can apply for a grant to improve child protective service system
- State must submit a plan, and to the extent practicable, coordinate plan with part B of IV of Social Security Act
- Money is distributed based on population of children under age 18 in each state

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CAPTA Law

- State must certify that it 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 a variety of procedures or provisions (see page 11 of CAPTA).

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CAPTA Law Assurances

- Provisions or procedures for reporting known or suspected incidences of child abuse and neglect
- Procedures for the immediate screening, safety assessment, and prompt investigation of such reports

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CAPTA Law Assurances

- Procedures for immediate steps to be taken to ensure and protect the safety of the abuse 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

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CAPTA Law Assurances

- 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

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CAPTA Law Assurances

- 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 --

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CAPTA Law Assurances

- Individuals who are the subject of the report
- 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;
- Child abuse citizen review panels
- Child fatality review panels

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CAPTA Law Assurances

- 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
- Other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate state purpose

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CAPTA Law Assurances

- 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

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CAPTA Law Assurances

- 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

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CAPTA Law Assurances

- 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

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CAPTA Law Assurances

- 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 –
 - To obtain first-hand, a clear understanding of the situation and needs of the child; and
 - To make recommendations to the court concerning the best interests of the child

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CAPTA Law Assurances

- The establishment of citizen review panel in accordance with subsection (c)
- AR has a citizen review panel in Jefferson

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CAPTA Law Assurances

- Provisions, procedures and mechanisms to be effective not later than 2 years after the date of the enactment of this section –
 - For the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and
 - By which individuals who disagree with an official finding of abuse or neglect can appeal such finding

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CAPTA Law Assurances

- Provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section –
 - For the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and
 - By which individuals who disagree with an official finding of abuse or neglect can appeal such finding

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CAPTA Law Assurances

- 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 –

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CAPTA Law Assurances

- To have committed murder of another child of such parent
- To have committed voluntary manslaughter of another child of such parent;
- To have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or
- To have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent

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CAPTA Law Assurances

- Upon the implementation by the State of the above provisions, conviction of any one of the felonies listed 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).

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CAPTA Law Assurances

- The State has in place procedures for responding to the reporting of medical neglect, procedures or programs or both to provide for coordination and consultation with health care facilities and prompt notification by individuals within those health care facilities

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CAPTA Law Assurances

- For 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.

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CAPTA Law

- State Plan must have
 - Description of services to be provided under the grant
 - Training to be provided under the grant
 - Training for mandated reporters to be provided under the grant

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CAPTA Law

- 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 found it has reason to believe that the reporter knowingly made a false report.

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CAPTA Law

- Definitions
 - Near Fatality means an act that, as certified by a physician, placed the child in serious or critical condition; and
 - Serious Bodily Injury means bodily injury which involved 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.

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CAPTA Law

- Citizen Review Panel
 - Each state getting a grant shall establish a citizen review panel
 - State can establish an existing entity such as child fatality panel or foster care review panel if such entities have the capacity to satisfy requirements

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CAPTA Law

- Citizen Review Panel
 - Volunteer members who are broadly representative of the community including members who have expertise in the prevention and treatment of child abuse and neglect
 - Meeting not less than once every 3 months

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CAPTA Law

- Citizen Review Panel
 - Panel, by examining the policies and procedures of state agencies, and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities

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Citizen Review Panels

- Arkansas Commission on Child Abuse, Rape & Domestic Violence "Aggregate Quarterly Report"
- One Recommendation: Eliminate the number of children placed in DCFS custody when there is no neglect or abuse involved.

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CAPTA Law

- Each state getting a grant must submit an annual report to the Secretary with
 - The number of children who were reported to the State during the year as abused or neglected
 - Of this number, the number of reports substantiated, unsubstantiated, or determined to be false

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CAPTA Law

- Number of children who did and did not receive services
- Number of children removed from their families during the year
- Number of families receiving preventive services
- Number of deaths in the State resulting from child abuse or neglect

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CAPTA Law

- Number of deaths resulting from child abuse or neglect when the children were in foster care
- Number of child protective services workers responsible for intake and screening reports
- Agency response time with respect to each report with respect to initial investigation

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CAPTA Law

- Response time to provision of services to families where an allegation of abuse or neglect has been made
- Number of child protective services workers responsible for intake, assessment, and investigation or child abuse and neglect reports relative to the number of reports investigated

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CAPTA Law

- 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 a child.

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CAPTA Law

- 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.

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CAPTA Law

- Definitions
 - Sexual Abuse means 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 stimulation of such conduct for the purpose of producing a visual depiction of such conduct; or

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CAPTA Law

- Definition
 - 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 imminent risk of serious harm.

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CAPTA Law

- Definitions, cont
 - The rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of child, or incest with children.

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CAPTA Regulations

- 45 CFR 1340

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CAPTA Regulations

- Definitions
 - Child abuse and neglect means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of 18, or the age specified by state law,

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CAPTA Regulations

- by a person including any employee of a residential facility or any staff person providing out of home care who is responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. Includes both acts and omissions

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CAPTA Regulations

- Negligent treatment or maltreatment includes failure to provide adequate food, clothing, shelter, or medical care

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CAPTA Regulations

- Nothing in this part should be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child; provided, however, that if such a finding is prohibited, the prohibition shall not limit the administrative or judicial authority of the State to ensure that medical services are provided to the child when he health requires it.

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CAPTA Regulations

- Threatened harm to a child's health or welfare means a substantial risk of harm to the child's health or welfare

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CAPTA Regulations

- Person responsible for a child's welfare includes child's parents, guardian, foster parent, employee or public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting or any staff person providing out of home care.

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CAPTA Regulations

- For purposes of this definition, out-of-home care means child day care, i.e. family day care, group day care, and center-based day care; and at State option, any other settings in which children are provided care.

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CAPTA Regulations

- State must define child abuse and neglect in accordance with CAPTA regulations.
- State must provide by statute that specified persons must report and by statute or administrative procedure that all other persons are permitted to report known and suspected instances of child abuse and neglect to a child protective agency

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CAPTA Regulations

- State must provide for the prompt initiation of an appropriate investigation by a child protective agency or other properly constituted authority to substantiate the accuracy of all reports. May include reporting hotlines, field investigations and interviews, home visits, medical exams, psychological and social evaluations and reviews by multidisciplinary teams.

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CAPTA Regulations

- State must have a statute or administrative procedure requiring that when a report of known or suspected child abuse or neglect involves the agency to which the report would ordinarily be made, a different properly constituted authority must receive and investigate the report and take appropriate protective and corrective action.

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CAPTA Regulations

- If an investigation reveals the reported child or any other child under the same care is in need of immediate protection, the state must provide emergency services to protect the child's health and welfare. Services may include emergency caretaker or homemaker services, emergency shelter care or medical services, review by MDT and if appropriate, criminal or civil court action to protect the child, to help the parents or guardians, and if necessary, to remove the child from a dangerous situation.

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CAPTA Regulations

- In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual to represent and protect the rights and best interests of the child.

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CAPTA Regulations

- State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

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CAPTA Regulations

- If a state chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines
 - Court, under terms identifies in State statute
 - A grand jury

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CAPTA Regulations

- A properly constituted authority, including MDT, investigating a report or providing services to child or family
- A physician who has before him a child whom the physician reasonably suspects may be abused or neglected
- A person legally authorized to place a child in protective custody

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CAPTA Regulations

- An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect.
- A person about whom a report has been made, with protection for the identity of the reporter if disclosure of such information would be likely to endanger the life or safety of the reporter

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CAPTA Regulations

- A child named in the report or his guardian or guardian ad litem
- An appropriate state or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his official functions; and
- Bonafide research or evaluation project

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CAPTA Regulations

- If a state chooses, may authorize by statute disclosure to additional persons and agencies, as determined by the state, for the purpose of carrying out background and/or employment related screening of individuals who are or may be engaged in specified categories of child related activities or employment.

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CAPTA Funding

- Community Based Resource Centers (\$33 million in 2002)
- CAPTA state grants (\$22 million in 2002)
- CAPTA discretionary grants (research and demonstration) (\$26 million in 2002)
- From Miriam Rollins, JD from NACC Conference in Orlando, FL on 9/29/02
- Arkansas' most recent CAPTA grant \$290,212

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Arkansas Child Maltreatment

- 1965 first legislation "Reports of Injuries to Children"
- Amended in 1975 "Child Abuse Reporting"
- Amended in 1991 "Arkansas Child Maltreatment Act"

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Arkansas Child Maltreatment

- 12-12-501 Purpose
- 12-12-502 Regulations & Cooperative Agreements
- 12-12-503 Definitions
- 12-12-504 Penalties
- 12-12-505 Central Registry
- 12-12-506 Disclosure of Central Registry Data

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Arkansas Child Maltreatment

- 12-12-507 Reports of suspected abuse or neglect
- 12-12-508 Radiology procedures, photographs, and medical records
- 12-12-509 Investigation – Examinations of children
- 12-12-510 Investigative Powers

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Arkansas Child Maltreatment

- 12-12-511 Investigation to be closed
- 12-12-512 Child Maltreatment Investigative Determination – Notice of Finding – Amendment and Appeal
- 12-12-513 Requests for subpoenas – Form
- 12-12-514 Child Maltreatment Investigative Report

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Arkansas Child Maltreatment

- 12-12-515 Provision of information to person or agency making initial notification of suspected maltreatment
- 12-12-516 Protective custody of children
- 12-12-517 Liability
- 12-12-518 Privileged communication as evidence - Exception

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Arkansas Child Maltreatment

- 12-12-519 Custody of children and services to families

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