

Relevant Federal Laws/Policies

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This section lists the popular names, public laws, and/or U.S. codes for laws that were referred to in *A Family's Guide to the Child Welfare System*. It also describes laws that affect child welfare practice but were not specifically mentioned in the *Guide*. A paragraph or two summarizing the key points of each is provided. If you would like to look up the specific language of the laws and policies, you can find the actual laws at your public library or by searching on the Internet. On the Internet, you can go to the Library of Congress Web site, <http://thomas.loc.gov/>. You can also visit the federal Children's Bureau, Department of Health and Human Services' Web site for specific state- and federal-level information on child welfare laws and policies at <http://www.acf.hhs.gov/programs/cb/laws/#state>.

If you need legal advice or need more explanation specific to your situation, it is best to contact a lawyer.

- 1. Child Welfare Services Program (Title IV-B, Subpart 1 of the Social Security Act)**— This program authorizes federal funds in the form of grants to states for a wide range of child welfare services and activities. Individual children who receive services from the child welfare system through the use of these funds do *not* have to meet any federal income requirements.
- 2. Adoption Assistance and Child Welfare Act of 1980 (Title IV-E of the Social Security Act, Public Law: 96-272)**—This act provides the largest federal funding stream for child welfare services. It covers the cost of room and board for foster care, subsidizes adoption of children with special needs, pays for training for child welfare staff and for foster and adoptive parents, and covers some of the child welfare agency’s administrative costs. Title IV-E funds are available only to children whose families’ income is low enough to meet certain federal income requirements.

This legislation requires child welfare agencies to make “reasonable efforts” to keep families together and to return children in foster care to their original homes. This law was originally initiated to do the following:

- prevent unnecessary separation of children from their families
- reduce the duration of a child’s stay in foster care
- protect the autonomy of the family
- encourage adoption when it is in the child’s best interest
- improve the quality of care and services
- reduce the number of children in foster care
- promote the return of children to their families

Title IV-E Waivers: Through an application process, some states (not all) have received waivers that give states greater flexibility in the use of their Title IV-E funds to test new and creative ways to fund and deliver child welfare services.

Note: Title IV-B and Title IV-E of the Social Security Act (#1 and #2 above) are the primary sources of federal funds to states for a variety of child welfare services.

- 3. Child Abuse Prevention and Treatment Act (CAPTA)—1974, 1996, 2002, 2003, Public Law: 108-36 (Amendments of 2003)**—This act provides a definition of child abuse and neglect behaviors that are reportable to Child Protective Services. It requires certain professionals to report child abuse and neglect and provides grants to states for child abuse and neglect prevention and treatment programs. CAPTA was reauthorized in 2003. Sometimes the 2003 reauthorized version of CAPTA is referred to as The Keeping Children and Families Safe Act of 2003.

CAPTA was enacted in 1974 for several reasons:

- Physicians noticed that 1 in 10 children seen in emergency rooms were victims of physical abuse.
- Many child maltreatment situations were not reported.
- States had developed reporting laws and responses to reports without much uniformity.

The goals of the law are as follows:

- to increase identification, reporting, and investigation of child maltreatment
- to monitor research and compile and publish materials for people working in the field
- to develop uniformity of reporting and response across the country
- to enhance the federal governments role to be proactive in the detection, prevention, and treatment of child abuse

After several reauthorizations, the law now minimally provides for the following:

- investigation of child abuse and neglect
- prosecution of child abuse
- child abuse prevention grants and services
- training for child protective services workers

8. Title XX of 1975 (Social Services Block Grant), Public Law 97-35—Title XX provides federal funds for services for low-income children, families, and adults. States are given wide discretion in determining what services these funds will pay for, including child welfare-related activities, such as preventive, protective, adoption services, and services for children in foster care.

9. IDEA (Public Law 101-119), Part B and Part C. (This bill is scheduled to be reauthorized in 2003)—The Individuals with Disabilities Education Act (IDEA) is a federal law that was originally passed by Congress in 1986. It gives children with disabilities or delays in development the right to appropriate and needed developmental and educational services from birth through age of 21. It provides funds and resources so children with disabilities are able to receive a Free Appropriate Public Education. It has four different parts to it, but parts B and C most directly affect families.

Part B of IDEA, also known as Assistance for Education of All Children with Disabilities, is set up to help states, territories, and the District of Columbia with providing special education and related services to children ages 3-21. These children must have 1 of the 13 disabilities identified in the law (autism, deafness, deaf-blindness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment). To obtain services, the child must have an evaluation to decide if he/she meets the criteria for services. If so, the family and a school team will meet to create a written plan. This plan, the Individualized Education Program (IEP), explains the services and supports that will be provided to meet the child's needs. It also lists the educational goals they hope to reach.

Part C of IDEA, also known as Infants and Toddlers with Disabilities, is set up to assist states, territories, and the District of Columbia with developing a comprehensive and coordinated system of early intervention services. The early intervention system provides services and supports for infants and toddlers birth through 2 years old who have a disability or are suspected of having a disability or a delay in their development and their families. Early intervention services and supports include an evaluation of the child's development and, if the child's development is delayed, the creation of a plan with the family to help the child overcome those delays. This plan is called the Individualized Family Service Plan (IFSP). The plan determines the type of services the infant or toddler may need. The services are then started and occur in the child's natural environment or place that the child spends the majority of his/her time.

10. Indian Child Welfare Act of 1978 (ICWA), Public Law 95-608—This law mandates that state courts act to preserve the unity of Native American families by giving preference for out-of-home placements first to extended families, then to foster families in the child's own tribe, and finally to foster families of another tribe. It also regulates how states handle child abuse and neglect and adoption cases involving Native American children. ICWA allows tribal courts to request that a child's "case" be transferred from the state court to the tribal court. (See Section 8 in the *Guide* for more information.)

7. Multiethnic Placement Act of 1994 (MEPA, Public Law 103-82; also known as the Howard M. Metzenbaum Multiethnic Placement Act of 1994)—This act was enacted in 1994 as part of the Improving America's Schools Act to do the following:

- prohibit an agency or entity that receives federal assistance and is involved in adoptive or foster care placements from delaying or denying the placement of a child solely on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved
- amend the Social Security Act by requiring diligent efforts to expand the number of racially and ethnically diverse foster and adoptive parents

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- give individuals aggrieved by a noncomplying agency or entity the right to bring an action in the appropriate U.S. District Court
 - state that noncompliance is considered a violation of the antidiscrimination principles of the U.S. Constitution and Title VI of the Civil Rights Act of 1964

8. Interethnic Placement Act of 1996 (IEPA, Public Law 104-188; Interethnic Adoption Provisions, included in the Small Business Job Protection Act) amended the MEPA in 1996 (described in item 7 above) through provisions for the Removal of Barriers to Interethnic Adoption to do the following:

- remove potentially misleading language in MEPA's original provisions and clarify that discrimination based on race, color, or national origin is not to be tolerated in the adoption and foster placements of any child
- discuss fiscal penalties that withhold federal funds to states that have violated these provisions or failed to implement corrective action
- indicate that an action may not be brought more than 2 years after the date of the alleged violation

9. Adoption and Safe Families Act of 1997 (ASFA), Public Law 105-89—This act established the goals of safety, permanency, and well-being for children in contact with the child welfare system. It provided a shortened timeframe for states to initiate termination of parental rights, except under certain circumstances. It also provided incentives to states for adoption activities. It established certain exceptions to the “reasonable efforts” requirement to keep families together or reunite children in foster care with their families.

10. Family Preservation and Support Services Program (1993) (Title IV-B, Subpart 2 of SSA), Public Law 103-66, 42 U.S.C. 629A(1), 42 U.S.C. 629A(2)—This law provides federal funds for family support services and makes increased funds available for family preservation services, which are services designed to help preserve family unity and prevent placement of children in foster care, and for family support services, which are services to promote the safety and well-being of children and families and increase strength and stability of families.

Promoting Safe and Stable Families (1997), Title IV-B, Part 2 of SSA

The Family Preservation and Support Services Program was renamed in 1997 as the Promoting Safe and Stable Families Program (PSSF). The PSSF allows states to continue using these federal funds for family preservation and support services. It also emphasizes the importance of keeping children safe while families receive services. It expands the type of services for which these federal funds must be used. The new services are time-limited family reunification services, and adoption promotion and support services.

Promoting Safe and Stable Families Amendments of 2001, Public Law 107-133

These amendments extend the PSSF program and also support programs for educational and training vouchers for youth who “age out” of foster care, as well as a mentoring program for children with incarcerated parents. It changes the definition of family preservation services to include infant safe-haven programs. Family support services now include programs to strengthen parental relationships and promote healthy marriages.

11. John H. Chafee Foster Care Independence Program, Title I (1999), Public

Law 106-169—This program provides funds to states to assist youth and young adults (up to age 21) who are leaving foster care by providing educational, vocational, practical, and emotional services and supports. Title I of the Act gives states the option to extend Medicaid coverage to youth between 18 and 21 years of age, who were in foster care on their 18th birthday.