

## Summary of Major Federal Child Welfare Legislation (1974 to present)

The following are brief summaries of major Federal Child Welfare Laws. Each piece of federal legislation cannot be read and understood in isolation as these laws are often expanded, amended and/or repealed by subsequent legislation. Throughout CTC those current and relevant federal laws governing today's child welfare practice will be explained in more detail. Some of these laws are provided in full in the resource manual available online at [www.pacwrc.pitt.edu](http://www.pacwrc.pitt.edu). (See Appendix 1 for more detailed access instructions).

### **The Child Abuse Prevention and Treatment Act (CAPTA) of 1974, P.L.93-247**

**Purpose:** To provide financial assistance for State's demonstration programs for the prevention, identification, and treatment of child abuse and neglect.

#### **Significant provisions:**

- Provide Assistance to States to develop child abuse and neglect identification and prevention programs;
- Supported research into child abuse prevention and treatment;
- Established the National Center on Child Abuse and Neglect (NCCAN) within the Department of Health, Education and Welfare;
- Created the National Clearinghouse on Child Abuse and Neglect Information; and
- Established Basic State Grants and Demonstration Grants for training personnel and to support innovative prevention and treatment programs for child maltreatment.

To qualify for assistance under this law States were required to enact certain laws and/or provide certain services including but not limited to:

- Enact state child abuse and neglect law which included a provisions for immunity for persons reporting instances of child abuse and neglect from prosecution;
- Provide for the reporting of known and suspected instances of child abuse and neglect;
- Provide for a prompt investigation and take immediate steps to protect the health and welfare of the abused or neglected child as well as any other child under the same care who may be in danger of abuse or neglect;

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- Demonstrate that personnel in connection with enforcement of child abuse and neglect are trained to deal effectively with child abuse and neglect cases;
- Provide methods to preserve confidentiality of all records;
- Provide for cooperation of law enforcement officials, courts, and appropriate State agencies providing human services;
- Provide for a guardian *ad litem* to represent the child in court proceedings; and
- Disseminate information to general public regarding child abuse and neglect, prevention, and treatment.

**Discussion:** While CAPTA and other federal legislation sets minimum standards, each State is responsible for determining its own definition of child maltreatment. CAPTA has been reauthorized and amended several times, most recently by the CAPTA Reauthorization of 2010.

### **The Indian Child Welfare Act (ICWA) of 1978, P.L. 95-608**

**Purpose:** “[P]rotect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.”

**Significant provisions:** ICWA defines the term “Indian child” and sets forth minimum standards for the removal of Native American children from their families and placement of these children into foster care or into adoptive homes that reflect Native American culture. Specific provisions include but are not limited to:

- “Indian Child” means any unmarried person who is under the age of eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;
- Minimum standards for removal of Indian children from their families, requiring “**active**” efforts rather than reasonable efforts to prevent removal of the child;
- Required notice of an Indian child’s pending placement to tribes and tribal courts.
- Tribal courts were established as the primary jurisdiction;
- A **hierarchy of placement preferences** for foster care placement and adoption such as: extended family, a family of the same tribe, other Indian families, tribe-approval of Indian operated institution; was established;

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- A **standard of proof** for the removal of an Indian child, clear and convincing and for the termination of parental rights was established, beyond a reasonable doubt; and
- The court must consider the testimony of an **expert witness** in finding an Indian child is dependent and in termination of parental rights hearings and make a determination that the continued custody of the child by the parent or custodian is likely to result in serious emotional or physical damage to the child.

**Discussion:** Through this federal law Congress recognized and upheld the individual rights of Native American children as well as the rights of the Native American community and tribe to retaining its children in its society. (Portley, 2000) This act only applies to Native American children in proceedings involving foster care placements, termination of parental rights, pre-adoptive placements and adoptive placements. Specifically excluded from this law are: custody disputes in divorce proceedings, placement of Native American children adjudicated delinquent and voluntary placements of Native American children by their parents when the parents can reclaim the children on demand.

### **Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, P.L. 95-266**

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

**Significant Provisions:** CAPTA 1978 provided a definition of child sexual abuse and added directives to the National Center on Child Abuse and Neglect (NCCAN) and established the Adoption Opportunities program. Specific provisions include but are not limited to:

- Provide a definition of “sexual abuse” to mean the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.
- Child or children means an individual who has not attained the age of eighteen.
- NACCAN must:
  - Develop a comprehensive plan for facilitating the coordination of activities among agencies;
  - Establish research priorities for making grants; and
  - Set aside funds to establish centers for the prevention, identification, and treatment of child sexual abuse.
- Established the Adoption Opportunities Program to:

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- Facilitate placement of children with special needs in permanent adoptive homes;
- Promote quality standards for adoptive placement and the rights of adopted children; and
- Provide for national adoption information exchange system.
- Provided for annual summaries of research on child abuse and neglect.

**Discussion:** In this revision of CAPTA, a specific definition of child sexual abuse was provided. States must include these provisions in statute definitions to be eligible for federal funding.

### **Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272**

**Purpose:** The Adoption Assistance and Child Welfare Act of 1980 was enacted to provide foster care and adoption assistance for children, who otherwise would be eligible for assistance under the State's plan, and to provide funds to carry the provisions in the law.

**Significant Provisions:** With this act, Congress required states to enact laws that mandated both child welfare agencies and courts to institute some of the following payments, definitions, services and findings:

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

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with most emphasis placed on **returning the child home as soon as possible**;  
and

- Required the court or administrative body to **determine** the child's future status, whether it is a return to parents, adoption, or continued foster care, **within 18 months after initial placement into foster care**. (Child Welfare Information Gateway)

**Discussion:** Although foster care was designed to be a service of last result, child welfare advocates recognized a growing phenomenon that they called “foster care drift.” Due to the 1970’s policies of directing funding to foster care rather than to rehabilitative and prevention services the number of children in foster care was increasing dramatically. Children who returned home were quickly returning to foster care. Children were staying in foster care longer and experiencing multiple placements. Parents were unaware of what they needed to do have their children returned to their homes. In response to these problems and with the assistance of child welfare professionals, congress added several specific program provisions to prevent the unnecessary removal of children from their families.

### **Amendments to Child Abuse Prevention and Treatment Act of 1984, P.L. 98-457** (As Known As Child Abuse Amendments of 1984)

**Purpose:** The Amendments to Child Abuse Prevention and Treatment Act of 1984 was enacted to implement program improvements to the NCCAN, amend CAPTA and to enact the Family Violence Prevention and Services Act.

**Significant Provisions:** Congress sought to extend and improve laws relating to child abuse, neglect, medical neglect, adoption and family violence.

- Study the incidence and severity of child abuse and neglect and any relationship between it and nonpayment of child support and other factors.
- Expand the definition of sexual abuse to include:
  - the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct (or any simulation of such conduct) for the purpose of producing any visual depiction of such conduct, or
- the rape, molestation, prostitution, or other such form of sexual exploitation of child, or incest with children, under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations.
- Expand the definition of child abuse and neglect to include the term withholding of medically indicated treatment and require a plan for responding to such allegations involving the withholding of medical treatment from disabled infants with life-threatening conditions.
- Provide a national adoption exchange to match special needs children with prospective adoptive families.

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- To assist States in efforts to prevent family violence and provide immediate shelter and assistance for victims of family violence.

**Discussion:** The requirement to identify and investigate the occurrence of withholding of medically indicated treatment was to insure that infants born with life-threatening and disabling conditions received proper medical attention including appropriate nutrition, hydration and medication which would, in the physician's opinion, be effective in ameliorating or correcting the conditions. The term "withholding medically indicated treatment" did not include the following if in the reasonable medical opinion of the physician the infant was chronically and irreversibly comatose; the provision of treatment would prolong dying; not be effective or be futile; and the treatment itself would be inhumane. However, appropriate nutrition, hydration and medication must still be provided in those circumstances. The law also provided for information and education programs to assist parents with infants with disabling and life-threatening conditions and to facilitate the adoption of such infants when they have been relinquished for adoption.

## **Child Abuse Prevention, Adoption, and Family Services Act of 1988, P.L. 100-294**

**Purpose:** The Child Abuse Prevention, Adoption, and Family Services Act was enacted to amend CAPTA of 1998, and the Family Violence Prevention and Services Act.

### **Significant Provisions:**

- Established:
  - An Advisory Board on Child Abuse and Neglect
  - An Interagency Task Force on Child Abuse and Neglect.
  - A National Commission on Child and Youth Deaths
- Provided grants to states to improve the handling of child abuse cases designed to limit additional trauma to the child victim and the investigation and prosecution of cases of child abuse particularly child sexual abuse;
- Required NCCAN to broaden its scope of research to include but not limited to:
  - The incidence of child abuse among children with handicapping conditions including those in out-of-home care;
  - Legal representation of children through the use of guardian *ad litem* and court appointed special advocates;
  - Fatalities in young children due to child abuse; and
- Authorized grants to states to increase the placement of foster care children legally free for adoption;
- Expanded Family Violence Prevention Project to Family Member Abuse Information and Documentation Project; and
- Expanded Adoption Opportunities Program:
  - To increase the number of minority children placed in adoptive families, with an emphasis on recruitment of and placement with minority families;
  - To provide for post-legal adoption services for families who have adopted special needs children; and

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- To increase the placement of foster care children legally free for adoption.

**Discussion:** With Public Law 100-294 congress completely rewrote the CAPTA demonstrating its commitment to fashioning laws that will genuinely address the needs of its most vulnerable population. By authorizing studies of the occurrence of child abuse among children with disabilities, congress shaped the awareness and practice of front-line child welfare professionals. The results of research conducted and reported by NCCAN in 1993 as a result of this law demonstrated that children with any kind of disability are more than twice as likely as children without a disability to be physically abused and almost twice as likely to be sexually abused. Of all children who were abused at that time, 17.2% of them had disabilities.

### **Child Abuse, Domestic Violence, Adoption, and Family Services Act of 1992, P.L. 102-295**

**Purpose:** The Child Abuse, Domestic Violence, Adoption, and Family Services Act reauthorized and amended CAPTA. In particular, Congress sought to eliminate barriers to adoption and provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs including disabled infants with life-threatening conditions.

**Significant Provisions:** Revised and changed provisions for research and assistance activities including but not limited to:

- Cultural distinctions relating to child abuse and neglect;
- Culturally sensitive procedures with respect to child abuse cases;
- The relationship of child abuse and neglect to cultural diversity;
- Provision of technical assistance related to adoption and foster care;
- National Public Awareness campaign;
- Operation of a National Resource Center for Special Needs Adoption; and
- Modified terminology such as “handicapped child” to “child with disabilities.”

**Discussion:** This reauthorization of CAPTA and its revision reflected congressional findings that the number of children in substitute care had increased by nearly 50 percent between 1985 and 1990 and that the foster care population included more than 400,000 children. Of significant concern at that time was that one-half of the children free for adoption and awaiting placement were minorities and that qualified people seeking to adopt were unable to do so due to barriers.

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## **The Family Preservation and Family Support Services Program Act of 1993 (part of the Omnibus Budget Reconciliation Act of 1993), P.L. 103-66**

**Purpose:** The Family Preservation and Family Support Services Program Act was enacted to encourage and enable each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services.

**Significant Provisions:** The Act defined “family preservation services” to mean services for children and families designed to help families (including adoptive and extended families) at risk or in crisis including but not limited to:

- Return children, where appropriate, to families from which they have been removed;
- Place children for adoption, with a legal guardian, or if the same is not available then in some other planned, permanent living arrangement;
- Provide pre-placement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement to remain with their families;
- Provide follow-up care to families to whom a child has been returned after a foster care placement;
- Provide respite care of children to provide temporary relief for parents and other caregivers (including foster parents);
- Provide services to improve parenting skills; and
- Provide family support services including community based services to promote the well-being of children and families designed to increase the strength and stability of families including adoptive, foster and extended families.

The Act also established the Court Improvement Program which provided grants to each state’s highest court to implement programs designed to conduct assessments of their dependency courts and to develop and implement a plan for system improvement.

**Discussion:** This Act is remarkable in its inclusion of specific language used to describe improve parenting skills such as “by reinforcing parents’ confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills.” This specificity represents Congress efforts to require states to engage in comprehensive planning process to develop more responsive family support and preservation strategies and to integrate preventive services into treatment-oriented child welfare systems.

## **The Multiethnic Placement Act of 1994 P.L. 103-382**

**Purpose:** The Multiethnic Placement Act of 1994 (MEPA), which was passed as an amendment in the Improving America’s Schools Act, was enacted to decrease the length of time that children wait to be adopted; to prevent discrimination in the

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placement of children based on race, color, or national origin and to facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs.

**Significant Provisions:** This Act enumerated specific prohibitions to those agencies or entities that received federal assistance and is involved in adoption or foster care placements. Specific provisions include but are not limited to:

- Prohibits a categorical denial of any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color or national origin of the adoptive or foster parent, or the child, involved;
- Prohibits a denial or delay in the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved;
- Permits consideration of the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child;
- Violations of these provisions are deemed a violation of title VI of the Civil Rights Act of 1964;
- This Act and its provisions do not affect the application of the Indian Child Welfare Act of 1978; and
- Required states to develop plans to recruit foster and adoptive parents who reflect racial and ethnic diversity of children in the State for whom families are needed.

**Discussion:** In the reauthorization of the Child Abuse Prevention, Adoption and Family Services Act of 1988, the focus was on the recruitment of adoptive homes that reflect the race and ethnicity of children. In MEPA, congress expanded the focus to include foster parents. Congressional findings at the time of its enactment were that nearly 500,000 children were in foster care; tens of thousands of children in foster care were waiting, at that time, for adoption; and the median length of time that children wait to be adopted was two years and eight months. Congress opined with this enactment that child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures and active creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

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### **Removal of Barriers to Interethnic Adoption: AKA The Interethnic Provisions of 1996. P.L. 104-188**

**Purpose:** The Removal of Barriers to Interethnic Adoption or the Interethnic Provisions of 1996 (IEPA) amended MEPA above and was enacted in the Small Business Job Protection Act of 1996. Its purpose was to modify the provisions of MEPA, to expand its requirements to include all entities involved in adoption and foster care that received federal funds and strengthen the enforcement provisions. In addition, it amended the Adoption Assistance provisions by adding a new section to include allowable tax credits for qualified adoption expenses incurred by individuals who adopt children.

**Significant Provisions:** IEPA modified the MEPA language to clarify that no State or any other entity in the State that receives federal funds and are involved in adoption or foster care placements may:

- Deny to any person the opportunity to become an adoptive or foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved.
- Delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

The IEPA also:

- Strengthened minority adoption and foster parent recruitment requirements by making it a Title IV-B State Plan requirement.
- Applied a system of graduated financial penalties for States that do not comply with the Title IV-E State Plan requirement or corrective actions plans.
- Repealed language that permitted consideration of the cultural, ethnic, or racial background of the child and consideration of the capacity of the prospective parent to meet the needs of a child.

**Discussion:** The changes brought about in IEPA have been controversial since their enactment. Advocates refer to it as a “colorblind” approach to placement of children in foster and adoptive homes. They have complained that the lack of enforcement of MEPA’s diligent recruitment of prospective parents who represent the racial and ethnic backgrounds of children in foster care and the elimination of consideration of the child’s cultural, ethnic, or racial background and the capacity of the prospective parent to meet these needs have not served these children’s best interest. African American children continue to be overrepresented in the foster care system, 32% when compared with their representation, 15%, in the overall population of children in the United States. A report issued by the Evan B. Donaldson Adoption Institute researched the issues related to “adoption identify” of these children and can be found at the organizations website at: <http://www.adoptioninstitute.org>. Several organizations including the Child Welfare League of America, the Dave Thomas Foundation for Adoption and the

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National and the Association of Black Social Workers are advocating to change the “color blind” policy in favor of “color consciousness” policy.

## **Child Abuse Prevention and Treatment Amendments of 1996, P.L. 104-235**

**Purpose:** The purpose of the CAPTA of 1996 was to reauthorize CAPTA until 2001 and to respond to concerns that states were preserving families at the expense of prolonging children’s out of home placements.

**Significant Provisions:** In addition to abolishing NCCAN and establishing the Office on Child Abuse and Neglect and providing grants for training programs for professionals engaged in the field of child maltreatment, CAPTA of 1996 mandated the establishment citizen review panels, not less than three, for the purpose of evaluating state child welfare agencies and making recommendations in child protective services. Additional provisions include but are not limited to:

- Expedite the termination of parental rights for abandoned babies;
- Expedite the termination of parental rights by not requiring reunification of a child with a parent who has been convicted of:
  - Murder or manslaughter of another child of that parent;
  - Aided, abetted, attempted, conspired or solicit to commit murder or manslaughter of a child of that parent; and
  - Felony assault resulting in serious bodily injury to the surviving child or another child of that parent;
- Mandate that convictions for any of the crimes above shall constitute grounds for termination of parental rights under the state laws. However, whether to seek termination of parental rights under these grounds are within the discretion of the State;
- Established the minimum definition of child abuse to include death, serious physical or emotional injury, sexual abuse, or imminent risk of harm; and
- Prohibit states from finding abuse or neglect in cases where parents are relying on spiritual means rather than medical treatment, in accordance with their religious beliefs.

## **Adoption and Safe Families Act of 1997, P.L. 105-89**

**Purpose:** The purpose of the Adoption and Safe Families Act (ASFA) was to promote the adoption of children in foster care and to reauthorize the Family Preservation and Family Support program and rename it the Safe and Stable Families Program. Significantly, AFSA added the language “safety of the child” to every step of the case plan and review process.

**Significant Provisions:** AFSA required significant changes to the timeline for permanency for children, clarified the term “reasonable efforts” to include children’s

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health and safety and added several new mandates to promote adoption in extreme situations. Specific provisions include but are not limited to:

- Reasonable efforts:
  - Health and safety of the child shall be the paramount concern;
  - Shall be made to preserve and reunify families;
  - Shall be made prior to the placement of a child in foster care to prevent or eliminate the need for removing the child from the child's home;
  - Shall be made to make it possible for a child to safely return to the child's home;
  - Shall be made to place the child in a timely manner in accordance with the permanency plan and to finalize the permanent placement of the child;
  - Shall not be required to be made when the parent has subjected the child to aggravated circumstances as defined in state law;
  - Shall not be required if the parent has committed murder, voluntary manslaughter, felony assault resulting in serious bodily injury, or was a party to any of the former as to the parent's child or surviving child; and
  - Shall not be required if the parental rights of the parent to a sibling has been terminated involuntarily.
- Accelerated pursuit of termination of parental rights when:
  - A child has been in out-of-home placement for at least 15 of the most recent 22 months, unless an exception exists;
  - The child is an abandoned infant as defined under state law; and
  - The parent has been convicted of murder, voluntary manslaughter, felony assault resulting in serious bodily injury, or was a party to any of the former as to the parent's child or surviving child.
- Required criminal background checks for foster/adoptive parents; and
- Required the Department of Health and Human Services to develop a set of outcome measures that can be used to assess the performance of States in operating child protection and child welfare programs to ensure the safety of children.

**Discussion:** The development of outcome measures was to build on earlier provisions in the Social Security Act Amendments of 1994 (P.L. 103-432), the enactment of AFSA created an unprecedented opportunity to make the child welfare system more responsive to the complex needs of children and families by establishing clear goals as well as creating a method to evaluate whether states are meeting these goals through outcome measures. Previously, states were monitored by assessing compliance with procedural requirements through a review of case documentation, not on whether families actually experienced positive outcomes. This review system is called the Child and Family Service Reviews (CFSRs).

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## Child and Family Service Reviews (CFSRs)

The federal government through the Children's Bureau utilizes the CFSRs to hold states accountable and responsible for delivering mandated services. These reviews are designed to:

- Ensure the state's conformity with Federal child welfare requirements;
- Determine what is actually happening to children and families engaged in child welfare services; and
- Assist states to improve its ability to help children and families achieve positive outcomes.

The Children's Bureau uses the CFSRs to identify both the strengths and needs within State programs, as well as areas where technical assistance can lead to program improvements. Ultimately, the goal of the CFSRs is to help States improve child welfare services and achieve the following seven outcomes for families and children who receive child welfare services which are divided into three separate key areas.

### Safety

- Children are, first and foremost, protected from abuse and neglect.
- Children are safely maintained in their homes whenever possible.

### Permanency

- Children have permanency and stability in their living conditions.
- The continuity of family relationships and connections is preserved for children.

### Well-Being

- Families have enhanced capacity to provide for their children's needs.
- Children receive appropriate services to meet their educational needs.
- Children receive adequate services to meet their physical and mental health needs.

## Foster Care Independence Act of 1999 (Chafee Act), P.L. 106-169

**Purpose:** The purpose of the Chafee Act was to provide states with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency by amending the Social Security Act.

**Significant Provisions:** In this Act, Congress recognized that although reasonable efforts are required to find adoptive placements for all children, older children who continued to live in foster care should receive independent living program services to help them prepare for employment, postsecondary education and successful management of adult responsibilities while reasonable efforts are concurrently made to identify a permanent placement. Provisions to improve and expand independent living programs include but are not limited to:

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  - a high school diploma;
  - career exploration;
  - vocational training;
  - job placement and retention;
  - training in daily living skills;
  - training in budget and financial management skills;
  - substance abuse prevention; and
  - preventive health activities.
- Provide personal and emotional support to children aging out of foster care through mentors and promotion of interaction with dedicated adults;
- Provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to:
  - to compliment their own efforts to achieve self-sufficiency; and
  - to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood.
- Development of outcome measures to assess state performance in operating independent living programs;
- State plans must certify that prospective parents will be adequately prepared to provide for the needs of the child; and
- Provide states the option to extend Medicaid coverage from 18 to 21 year olds who have been emancipated from foster care.

**Discussion:** In enacting this law, Congress identified several findings including that adolescents leaving foster care each year, approximately twenty thousand, have significant difficulty making a successful transition to adulthood. They have a high rate of homelessness, non-marital childbearing, poverty, and delinquent or criminal behavior. They also are frequently the target of crime and physical assault.

### **Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351**

**Purpose:** The primary purpose of the Fostering Connections to Success and Increasing Adoptions Act of 2008 is to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access and improve incentives for adoptions. This act also will be discussed more thoroughly in subsequent modules.

**Significant Provisions:** The provisions of this Act are presented according to the following categories and include but are not limited to:

- Connecting and Supporting Relative Caregivers:

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- Permits states to enter into kinship guardianship assistance agreements to provide payments to grandparents and other relatives who have assumed legal guardianship of related children for whom they have cared for as foster parents and have committed to care for on a permanent basis;
- Requires criminal record checks on relative and any other adult living in the home before the assistance payments are provided;
- Provides continuation of eligibility for independent living services and Medicaid when the child is in the legal guardianship of a relative;
- Provides grants to states with programs that provide assistance to kinship caregivers;
- Mandates that within 30 days after the removal of a child the state shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child. Notification includes:
  - The child has been or is being removed from parents;
  - Relatives' options under federal, state and local law to participate in the care and placement of the child, and any options lost by failing to respond to the notice;
  - Describes requirements to become a foster family and available services and supports and
  - Availability of kinship guardianship assistance payments.
- Improving Outcomes for Children in Foster Care
  - Provides an option for states to receive federal funds to subsidized permanent legal custody for those older youth who remain in placement beyond age 18;
  - Requires personalized transition planning for older youth within 90 days prior to their exit from foster care;
  - Requires a plan for ensuring the educational stability of the child while in foster care including:
    - Consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;
    - Assurances that coordination with the appropriate school to ensure the child remains in the school in which the child is enrolled at the time of placement;
    - Assurances by both the child welfare agency and the school system to provide immediate and appropriate enrollment in a new school with all of the educational records of the child provided to the school if continued enrollment in current school is not appropriate, and
    - Provide reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.
  - Requires assurances that each child required by state law to attend school is:
    - Enrolled or in the process of enrolling in school,
    - Home schooled according to state law,

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- Participating in an independent study program administered by the local school, or
  - Incapable of attending school on a full-time basis due to a medical condition of the child and that this incapability is supported by regularly updated information in the case plan of the child.
- Requires health oversight and coordination plan for each child in foster care which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements including mental health and dental health needs;
- Requires reasonable efforts to be made:
  - To place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement unless such joint placement is found to be contrary to the safety or well-being of any of the siblings; and
  - In case of siblings not placed together to provide for frequent visitation or other ongoing interaction between the siblings unless deemed to be contrary to the safety or well-being of any of the siblings.
- Tribal Foster Care and Adoption Access
  - Permits Native American tribes direct access to federal foster care, adoption assistance or kinship or guardianship funds;
  - Permits Native American tribe access to independent living services; and
  - Permits Native American tribes direct allocation from Chafee Foster Care Independence Program funds.
- Improve Adoption Incentives:
  - Requires states to negotiate in good faith with tribes in the development of IV-E agreements;
  - Requires states to use IV-E funding on behalf of Native American children and assist with tribes with other IV-E requirements;
  - Expanded adoption assistance payments to include children regardless of their parents' income or eligibility for AFDC;
  - Expanded eligibility for independent living services, education and training vouchers to children 16 and older who are adopted or leave foster care for legal guardianship with a relative; and
  - Requires notification of the possible adoption tax credit to all individuals considering adoption.

**Discussion:** Several of the provisions provided by Fostering Connections Act of 2008 already have been provided in Pennsylvania. Act 25 of 2003 requires CYD to give first consideration to placement of a child with a relative, to document attempts and reasons for failure if a relative placement is not made and that relatives receive the same foster care rates as other foster parents.

# Summary of Major Federal Child Welfare Legislation (1974 to present)

## **Justice for Victims of Trafficking Act of 2015 (JVTA), P. L. 114-22**

**Purpose:** JVTA provides grants to state and local governments that implement victim centered anti-trafficking initiatives for law enforcement and imposed criminal liability for sex trafficking to include those who are PURCHASERS as traffickers.

**Significant Provisions:** This legislation further defined sex traffickers as any person who recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits a person for the purpose of a commercial sex act, in which the commercial sex act was induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.

**Discussion:** The JVTA expanded on protections first introduced federally in 2000 (with further revisions in 2003, 2005, 2008 and 2013) in the Trafficking Victims Protection Act (TVPA). The TVPA established some standards for prevention, protection and assistance for victims, and for the prosecution of human trafficking as a Federal Crime.

## **Preventing Sex Trafficking and Strengthening Families Act of 2014, P.L. 113-183**

**Purpose:** The aim of this act is to prevent and address the sex trafficking of children involved with child welfare agencies, to develop standards for reasonable and prudent parenting to allow foster children to participate in age-appropriate activities, to extend and improve adoption incentives, and to improve international child support recovery.

**Significant Provisions:** P.L. 113-183 mandates that states must develop policies and procedures to identify, document, screen, and determine appropriate services for children under the child welfare agency's placement, care or supervision, who are victims of, or at risk of, sex trafficking.

States must also develop and implement protocols to locate children who run away or are missing from foster care, determine the child's experiences while absent from care, develop screening tools to determine if the child is a sex trafficking victim, and annually report information to Health and Human Services.

Reporting is a major component of the law. State child welfare agencies must immediately report children in their care identified as sex trafficking victims to law enforcement, and missing children and youth must be reported to law enforcement within 24 hours. Reporting can be completed using the **National Center for Missing and Exploited Children (NCMEC)** website at [www.missingkids.org](http://www.missingkids.org).

This legislation applies to children/youth who the state has responsibility for placement, care, or supervision. This includes children/youth:

- With an open case but who are not removed from the home
- In foster care who have run away (under age 18 or under age 21 if the state has extended Title IV-E foster care)

## Summary of Major Federal Child Welfare Legislation (1974 to present)

- Receiving services under the Chafee Foster Care Independence Program

This act also requires state agencies to develop reasonable and prudent parent standards for any foster family home or title IV-E funded child care institution. The development of strategies for foster parents to apply the reasonable and prudent parent standard are also required with the aim of promoting safety along with providing youth in care the experiences of normal and beneficial childhood activities.

**Discussion:** In broad terms, the requirements of this act are for states to improve the identification, documentation and determination of services for victims, and for states to develop and implement policies, procedures, and protocols, and set in place reporting requirements regarding sex trafficking victims and missing children and youth in adherence to federal timelines. States must also develop reasonable and prudent parent standards and develop strategies for helping foster parents apply these standards. For more information, you may take the CWRC online course Overview of Reasonable and Prudent Parenting and Public Law 113-183 at [www.e-learn.pitt.edu](http://www.e-learn.pitt.edu).