



## MEMORANDUM

### OVERVIEW

Research was conducted of all the federal child welfare laws contained in the Department of Health and Human Services' Administration for Children and Families' Index of Federal Child Welfare Laws ([www.acf.hhs.gov/programs/cb/laws\\_policies](http://www.acf.hhs.gov/programs/cb/laws_policies)). In addition, all laws listed under the Federal Legislation on this website were also researched. The Indian Child Welfare Act does not have any domestic violence provisions; however, the Multiethnic Placement Act does have domestic violence provisions (see below, in alpha order). Of the 50 plus federal child welfare laws reviewed, 11 (including CAPTA) contained domestic violence provisions. These laws are listed below in alpha order.

### FEDERAL CHILD WELFARE LAWS

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

- 42 USCA § 16985(a)(18) = Congress finds that according to a recent poll, 92 percent of American women said that fighting sexual assault and domestic violence should be a top public policy priority (a higher percentage than chose health care, child care, or any other issue).

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

- 42 USCA § 671(20)(A)(i) = If a criminal records check reveals that a prospective foster or adoptive parent has a felony conviction for spousal abuse, then approval for placement of a child with said foster or adoptive parent shall not be approved.
- 42 USCA § 671(29) = Requires that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the state exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence.

#### **Child Abuse Prevention and Treatment Reauthorization Act of 2010 (P.L. 111-320)**

- 42 USCA § 5102(f)(1) = Not later than 1 year after the establishment of the Advisory Board on Child Abuse and Neglect, the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

recommendations on coordinating Federal, State, tribal, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention.

- 42 USCA § 5104(b)(7)(B) = The Secretary shall, through the national clearinghouse for information relating to child abuse and neglect, collect and disseminate information relating to various training resources available at the State and local level to appropriate State and local officials to assist in training domestic violence service personnel, among others.
- 42 USCA § 5104(b)(8) = The Secretary shall, through the national clearinghouse for information relating to child abuse and neglect, collect and disseminate information, in conjunction with the National Resource Centers, on effective programs and best practices for developing and carrying out collaboration between entities providing child protective services and entities providing domestic violence services.
- 42 USCA § 5104(c)(C)(iii) = In establishing a national clearinghouse, the Secretary shall develop a Federal data system that, to the extent practicable, coordinates existing Federal, State, tribal, regional, and local child welfare data systems which shall include information about the incidence and characteristics of child abuse and neglect in circumstance in which domestic violence is present.
- 42 USCA § 5105(a)(1)(I) = The Secretary shall, in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research, including longitudinal research, that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of victims of child abuse or neglect. Such research program may focus on effective collaborations between the child protection system and domestic violence service providers, that provide for the safety of children exposed to domestic violence and their non-abusing parents and that improve the investigations, interventions, delivery of services, and treatments provided for such children and families.
- 42 USCA § 5105(e)(1)(A) and (B) = Allows the Secretary to award grants to, or enter into contracts with, entities that are States, Indian tribes, or tribal organizations, or public or private agencies or organizations (or combinations of such entities) for time-limited, demonstration projects for the promotion of safe, family-friendly physical environments for visitation and exchange. The Secretary may award grants under this subsection to entities to assist them in establishing and operating safe, family-friendly physical environments for court-ordered, supervised visitation between children and abusing parents and to facilitate the safe exchange of children for visits with noncustodial parents in cases of domestic violence.
- 42 USCA § 5106(a)(1)(A) = The Secretary may award grants to public or private organizations under this subsection for the training of professionals, paraprofessional personnel, and individuals on, among other things, links between domestic violence and child abuse and neglect.



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

- 42 USCA § 5106(a)(1)(K) = The Secretary may award grants to public or private organizations under this subsection for cross training for child protective service workers in research-based strategies for recognizing situations of substance abuse, domestic violence, and neglect.
- 42 USCA § 5106(a)(2) = The Secretary may award grants to public or private organizations that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency and, among others, domestic violence prevention entities to allow for a triage system.
- 42 USCA § 5106(a)(5) = The Secretary may award grants to entities that provide linkages among child protective service agencies and public health, mental health, substance abuse, developmental disabilities, and domestic violence service agencies.
- 42 USCA § 5106(a)(6) = The Secretary may award grants to public or private agencies and organizations under this section to develop or expand effective collaborations between child protective service entities and domestic violence service entities to improve collaborative investigation and intervention procedures, provision for the safety of the non-abusing parent involved and children, and provision of services to children exposed to domestic violence that also support the caregiving role of the non-abusing parent.
- 42 USCA § 5106a(a)(14)(A) and (B) = The Secretary shall make grants to the States for purposes of assisting the States in improving the child protective services system of each such State in developing and implementing procedures for collaboration among child protective services, domestic violence services, and other agencies in investigations, interventions, and the delivery of services and treatment provided to children and families, including the use of differential response, when appropriate and the provision of services that assist children exposed to domestic violence, and that also support the caregiving role of their non-abusing parents.
- 42 USCA § 5106a(b)(2)(D)(v) = A State plan shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including a description of policies and procedures that promote and enhance appropriate collaboration among child protective service agencies, domestic violence agencies, substance abuse treatment agencies, and other agencies in investigations, interventions, and the delivery of services and treatment provided to children and families affected by child abuse or neglect, including children exposed to domestic violence, where appropriate.
- 42 USCA § 5116(b)(3) = The Secretary shall make grants under this subchapter on a formula basis to the lead entity designated by the State for the purpose of financing the start-up, maintenance, expansion, or redesign of specific-community based child abuse and neglect prevention program services (such as, among others, domestic violence services) identified by the inventory and description as an unmet need.



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

- 42 USCA § 5116a(a)(2) = Grants made under this subchapter shall be used to develop, implement, operate, expand, and enhance community-based, and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that develop a comprehensive strategy to provide a continuum of preventive, family-centered services to children and families, especially to young parents, to parents with young children, and to parents who are adult former victims of domestic violence or child abuse or neglect, through public-private partnerships.
- 42 USCA § 5116e(a)(3)(B)(ix) = Grants made under this subchapter shall be used to develop, implement, operate, expand, and enhance community-based, and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that provide access to optional services, including domestic violence service programs that provide services and treatment to children and their non-abusing caregivers.
- 42 USCA § 10414(a) = The Secretary shall enter into cooperative agreements with State Domestic Violence Coalitions for the purposes of establishing, operating, and maintaining local community projects to prevent family violence, domestic violence, and dating violence, including violence committed by and against youth, using a coordinated community response model and through prevention and education programs.
- 42 USCA § 10414(d) = To be eligible to enter into a cooperative agreement under this section (domestic violence prevention enhancement and leadership through alliances), an organization shall be a State Domestic Violence Coalition and include representatives of pertinent sections of the local community, which may include health care providers and state or local health departments; the education community; the faith-based community; the criminal justice system; family violence, domestic violence, and dating violence service program advocates; human service entities such as State child services divisions; business and civic leaders; and other pertinent sectors.
- 42 USCA § 10414(e)(2) = Applicants must demonstrate that projects will include a coordinated community response to improve and expand prevention strategies through increased communication and coordination among all affected sectors of local community.
- 42 USCA § 10414(e)(3)(A) = Applicants must include a complete description of the applicant's plan for the establishment and implementation of the coordinated community response, including a description of the method to be used for identification and selection of an administrative committee made up of persons knowledgeable about comprehensive family violence, domestic violence, and dating violence prevention planning to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project.



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES  
*est. 1937*

- 42 USCA § 10414(e)(5) = Applicants must demonstrate that the applicant has the capacity to carry out collaborative community initiatives to prevent family violence, domestic violence, and dating violence.
- 42 USCA § 10414(g)(3)(B) = In establishing and operating a project under this section, an eligible organization shall develop comprehensive plans to coordinate prevention efforts with other community sectors.
- 42 USCA § 10414(g)(3)(D) = In establishing and operating a project under this section, an eligible organization shall develop, replicate, or conduct comprehensive, evidence-informed primary prevention programs that reduce risk factors and promote protective factors that reduce the likelihood of family violence, domestic violence, and dating violence, which may include education workshops and seminars; training programs for professionals; the preparation of informational material; developmentally appropriate education programs; other efforts to increase awareness of the facts about, or to help prevent, family violence, domestic violence, and dating violence; and the dissemination of information about the results of programs conducted under this subparagraph.

#### **Children's Health Act of 2000 (P.L. 106-310)**

- 42 USCA § 247b-12(b)(2)(I) = The Secretary may carry out activities to expand research related to an examination of the relationship between domestic violence and maternal complications and mortality.
- 42 USCA § 290bb-25a(d)(2)(C) = An applicant that is awarded a grant under this subsection (grants for strengthening families) shall, in the fiscal year following the first fiscal year that such funds are received, use such funds to implement the program developed to provide early intervention and substance abuse prevention services to reduce family and community risks, such as family violence, alcohol or drug abuse, and other behaviors that may affect healthy child development and increase the likelihood of substance abuse.

#### **Child Welfare Practice Provisions in the Patient Protection and Affordable Care Act (P.L. 111-148)**

- 42 USCA § 300gg-4(a)(7) = A group health plan and a health insurance issuer offering group or individual health insurance coverage may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan or coverage based on any of the following health status-related factors in relation to the individual or dependent of the individual: evidence of insurability (including conditions arising out of acts of domestic violence).
- 42 USCA § 300uu-10(h)(3) = Not later than July 1, 2010, and annually thereafter through January 1, 2015, the National Prevention, Health Promotion and Public Health



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

Council shall submit to the President and relevant committees of Congress, a report that contains a list of national priorities on health promotion and disease prevention to address lifestyle behavior modification (domestic violence screenings, among others) and the prevention measures for the 5 leading disease killers in the United States.

- 42 USCA § 711(b)(1)(A)(iv) = Each state shall, as a condition of receiving payments (maternal and child health services block grant), conduct a statewide needs assessment that identifies communities with concentrations of domestic violence.
- 42 USCA § 711(d)(1)(A)(iv) = Requires early childhood home visitation programs conducted with a grant made under this section to establish quantifiable, measurable 3- and 5-year benchmarks for demonstrating that the program results in improvements for the eligible families participating in the program in each of the following areas: reduction in crime or domestic violence, among others.
- 42 USCA § 711(d)(2)(A) and (B)(iv) = The program is designed to result in the participant outcomes that the eligible entity identifies, on the bases of an individualized assessment of the family, are relevant for that family. Participant outcomes include the reduction in crime or domestic violence.
- 42 USCA § 18203(d)(1)(A) = A state may use funds received (support for pregnant and parenting teens and women) to provide intervention services, accompaniment, and supportive social services for eligible pregnant women who are victims of domestic violence, sexual violence, sexual assault, or stalking.
- 42 USCA § 18203(d)(1)(B)(i), (ii), (iii), and (iv) = A state may use funds received (support for pregnant and parenting teens and women) to provide technical assistance and training relating to violence against eligible pregnant women to be made available to Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts; professionals working in legal, social service, and health care settings; nonprofit organizations; and faith-based organizations.
- 42 USCA § 18203(d)(3)(A), (B), (C), and (D) = Describes technical and training assistance as the identification of eligible pregnant women experiencing domestic violence, sexual violence, sexual assault, or stalking; the assessment of the immediate and short-term safety of such a pregnant woman, the evaluation of the impact of the violence or stalking on the pregnant woman's health, and the assistance of the pregnant woman in developing a plan aimed at preventing further domestic violence, sexual violence, sexual assault, or stalking, as appropriate; the maintenance of complete medical or forensic records that include the documentation of any examination, treatment given, and referrals made, recording the location and nature of the pregnant woman's injuries, and the establishment of mechanisms to ensure the privacy and confidentiality of those medical records; and the identification and referral of the pregnant woman to appropriate public and private nonprofit entities that provide intervention services, accompaniment, and supportive social services.

### **Deficit Reduction Action of 2005 (P.L. 109-171)**

UNIVERSITY OF NEVADA P.O. Box 8970 RENO, NV 89507  
1041 NORTH VIRGINIA STREET THIRD FLOOR RENO, NV 89503  
775/784-6012 775/784-6628 FAX



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

- 42 USCA § 603(a)(2)(A)(ii)(I)(aa) = Entities seeking funding under this section (healthy marriage promotion and responsible fatherhood grants) must describe in their application how the programs and activities proposed will address, as appropriate, issues of domestic violence.
- 42 USCA § 603(a)(2)(C)(ii)(I) = Defining the term “activities promoting responsible fatherhood” to include, among other things, disseminating information on the causes of domestic violence and child abuse.

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

- 42 USCA § 627(a)(3)(B) = Allows the Secretary of Health and Human Services to make matching grants to State, local, or tribal child welfare agencies, and private nonprofit organizations that have experience working with foster children or children in kinship care arrangements, for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members through implementation of family group decision-making meetings for children in the child welfare system that, when appropriate, address domestic violence issues in a safe manner and facilitate connecting children exposed to domestic violence to appropriate services, including reconnection with the abused parent when appropriate.

### **Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)**

- 29 USCA § 1182(a)(1)(G) = A group health plan, and a health insurer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual: evidence of insurability (including conditions arising out of acts of domestic violence).
- 26 USCA § 9802(a)(1)(G) = A group health plan may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following factors in relation to the individual or a dependent of the individual: evidence of insurability (including conditions arising out of acts of domestic violence).

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

- 20 USCA § 7113(a)(9)(B) = In order to receive funds under this title (Education, Strengthening and Improvement of Elementary and Secondary Schools, 21<sup>st</sup> Century



NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

Schools, Safe and Drug-Free Schools and Communities, State Grants), applications must contain, among other things, the results of a needs assessment conducted by the State for drug and violence prevention programs, including data on the prevalence of risk factors, which include high or increasing risks of reported cases of child abuse or domestic violence.

- 20 USCA § 7115(a)(1)(D) = For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall be based on an analysis of the data reasonably available at the time, of the prevalence risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables in schools and communities in the State identified through scientifically based research.
- 20 USCA § 7115(b)(2)(E)(xxii) = Allows local educational agencies to use funds for drug and violence prevention activities that include programs that respond to the needs of students who are faced with domestic violence or child abuse.
- 42 USCA § 11432(f)(5)(B) = Requires the Coordinator for Education of Homeless Children and Youths in each state to coordinate and collaborate with providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, among others) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families.
- 42 USCA § 11433(d)(13) = Allows local education agencies receiving funds under this section to use the funds for activities that address the particular needs of homeless children and youths that may arise from domestic violence.

### **Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)**

- 42 USCA § 602(7)(A)(i), (ii), and (iii) = At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals; refer such individuals to counseling and supportive services; and waive, pursuant to a determination of good cause, other program requirements such as time limits for individuals in cases where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.
- 42 USCA § 653(b)(2) = No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence





NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

*est. 1937*

or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent (regarding the Federal Parent Locator Service)

**Promoting Safe and Stable Families Amendments of 2001 (P.L. 107-133)**

- 42 USCA § 629a(a)(7)(B)(iv) = Defines time-limited family reunification services as services and activities that provide assistance to address domestic violence.