

**CHAPTER 38**

**OVERVIEW OF FEDERAL LAWS**

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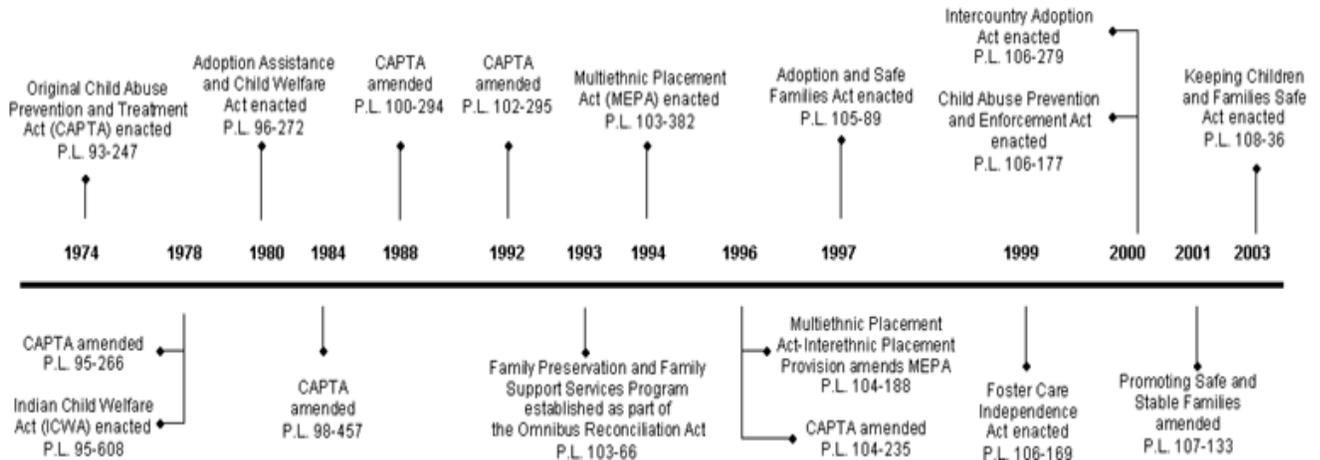
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## Timeline of Major Federal Legislation Concerned with Child Protection, Child Welfare, and Adoption



- **1974:** Original Child Abuse Prevention and Treatment Act (CAPTA) enacted, P.L. 93-247.
- **1978:** CAPTA amended, P.L. 95-266; and Indian Child Welfare Act (ICWA) enacted, P.L. 95-608.
- **1980:** Adoption Assistance and Child Welfare Act enacted, P.L. 96-272.
- **1984:** CAPTA amended, P.L. 98-457.
- **1988:** CAPTA amended, P.L. 100-294.
- **1992:** CAPTA amended, P.L. 102-295.
- **1993:** Family Preservation and Family Support Services Program established as part of the Omnibus Reconciliation Act, P.L. 103-66.
- **1994:** Multiethnic Placement Act (MEPA) enacted, P.L. 103-382.
- **1996:** Multiethnic Placement Act-Interethnic Placement Provision amends MEPA, P.L. 104-188; and CAPTA amended, P.L. 104-235.
- **1997:** Adoption and Safe Families Act enacted, P.L. 105-89.
- **1999:** Foster Care Independence Act enacted, P.L. 106-169.
- **2000:** Intercountry Adoption Act enacted, P.L. 106-279; and Child Abuse Prevention and Enforcement Act enacted, P.L. 106-177.
- **2002:** Promoting Safe and Stable Families amended, P.L. 107-133.
- **2003:** Keeping Children and Families Safe Act enacted, P.L. 108-36.

	<b>Federal Law</b>	<b>AUTHORITY</b>
38.01.	<p><b>OVERVIEW OF CHAPTER</b></p> <p>This Chapter provides a framework for understanding the Federal legislation that has shaped the delivery of child protection and child welfare services. It provides an overview of each legislative act, including reasons a particular bill was initiated, the objectives and goals of the legislation, and the major provisions of each act.<sup>1</sup> Acts and their related amendments are grouped together and, therefore, do not follow a chronological timeline similar to that found on the chart on page 1. Included are web addresses to a summary or the full text of each Act, as well as links to other online resources.</p>	
38.02.	<p><b>BACKGROUND</b></p> <p><b>A. FEDERAL GOVERNMENT ROLE</b></p> <p>Beginning with the passage of the Child Abuse and Prevention and Treatment Act (CAPTA) in 1974, the U.S. Congress has implemented a number of laws that have had a significant impact on child protection and child welfare services.<sup>2</sup> Federal legislation also frequently requires Federal government departments and agencies to promulgate and/or amend policy and regulation. The Children’s Bureau is the policymaking entity for Federal legislation related to child protection, child welfare, and adoption. The Children’s Bureau website is: <a href="http://www.acf.hhs.gov/programs/cb/index.htm">http://www.acf.hhs.gov/programs/cb/index.htm</a></p> <p><b>B. STATE GOVERNMENT ROLE</b></p> <p>State-level responses to these federal laws included enacting State legislation, developing or revising State agency policy and regulations, and implementing new programs. The primary responsibility for child welfare services rests with the States. Each State has its own legal and administrative structures and programs that address the needs of children. In addition, States frequently must comply with specific Federal requirements and guidelines in order to be eligible for Federal funding under certain programs. The Social Security Act contains the primary sources of Federal funds available to States for child welfare, foster care, and adoption activities.</p>	<p><i>Major Federal Legislation Concerned with Child Protection, Child Welfare, and Adoption, Child Welfare Information Gateway, Children’s Bureau, U.S. Dept. of Health and Human Services (Oct. 2003)</i></p>
38.03.	<p><b>ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• Concern about children being sexually abused and exploited</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To protection children from sexual exploitation and violent crime</li> <li>• To prevent child abuse and child pornography</li> <li>• To promote Internet safety.</li> </ul>	P.L. 109-248

<sup>1</sup> The text of much of this Chapter is excerpted from “*Major Legislation Concerned with Child Protection, Child Welfare, and Adoption* (Oct. 2003) and has been reprinted with permission of the Children’s Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>2</sup> The Federal government started providing grants to States for preventive and protective services and foster care payments in 1935 with the Child Welfare Services Program, Title IV-B of the Social Security Act. In 1961, legislation provided for foster care maintenance payments under the Aid to Dependent Children Program, Title IV-A of the Social Security Act. Both of these programs were amended by the Adoption Assistance and Child Welfare Act of 1980.

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>C. SERVICES PROVIDED/ MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Requires national criminal background and child abuse registry checks before approval of any foster or adoptive placement.</li> <li>• Requires the Department of Health and Human Services to establish a national registry of substantiated cases of child abuse and neglect.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Text:</b>  <a href="http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_248.cfm">http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_248.cfm</a></p>	
38.04.	<p><b>ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• Initiated in response to discontent with the public child welfare system.</li> <li>• Problem of "Foster Care Drift": the sense of impermanence in foster homes; and concerns about children placed in multiple foster placements over an extended period of time.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To prevent unnecessary separation of children from families.</li> <li>• To protect the autonomy of the family.</li> <li>• To shift support of Federal government away from foster care alone and towards placement prevention and reunification.</li> <li>• To promote the return of children to their families when feasible.</li> <li>• To encourage adoption when it is in the child's best interest.</li> <li>• To improve the quality of care and services.</li> <li>• To reduce the number of children in foster care.</li> <li>• To reduce the duration of a child's stay in foster care.</li> </ul> <p><b>C. SERVICES PROVIDED/ MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Required States to make adoption assistance payments, which take into account the circumstances of the adopting parents and the child, to parents who adopt a child who is AFDC-eligible and is a child with special needs.</li> <li>• Defined a child with special needs as a child who: <ul style="list-style-type: none"> <li>o Cannot be returned to the parent's home;</li> <li>o Has a special condition such that the child cannot be placed without providing assistance; and</li> <li>o Has not been able to be placed without assistance.</li> </ul> </li> <li>• 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 who have been removed as soon as possible.</li> </ul>	P.L. 96-272

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>38.04 Adoption Assistance and Child Welfare Act of 1980 (continued)</b></p> <ul style="list-style-type: none"> <li>• Required participating States to establish reunification and preventive programs for all in foster care.</li> <li>• The State must place a child in the least restrictive setting and, if the child will benefit, one that is close to the parent's home.</li> <li>• Court or agency must review the status of a child in any non-permanent setting every 6 months to determine what is in the best interest of the child. Most emphasis is placed on returning the child home as soon as possible.</li> <li>• Court or administrative body must 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.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Summary:</b> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d096:HR03434:@@D TOM:/bss/d096query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d096:HR03434:@@D TOM:/bss/d096query.html</a></p>	P.L. 96-272
38.05.	<p><b>ADOPTION AND SAFE FAMILIES ACT (ASFA) OF 1997</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• Many children in foster care were waiting several years for permanent placement.</li> <li>• The focus on "reasonable efforts" to reunify children with their families had led to some placement decisions that were not in the best interests of the child and not adequately focused on child safety.</li> <li>• In order to move children into permanent homes in a more timely manner, States needed stricter guidelines for placement and reunification of children within their families.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To promote permanency for children in foster care.</li> <li>• To ensure safety for abused and neglected children.</li> <li>• To accelerate permanent placements of children.</li> <li>• To increase accountability of the child welfare system.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Reauthorized the Family Preservation and Support Services Program: <ul style="list-style-type: none"> <li>○ Renamed it the Safe and Stable Families Program.</li> <li>○ Extended categories of services to include time-limited reunification services and adoption promotion and support services.</li> </ul> </li> <li>• Ensured safety for abused and neglected children: <ul style="list-style-type: none"> <li>○ Ensured health and safety concerns are addressed when a State determines placement for abused and neglected children.</li> <li>○ Required HHS to report on the scope of substance</li> </ul> </li> </ul>	P.L. 105-89

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p>abuse in the child welfare population, and the outcomes of services provided to that population.</p> <ul style="list-style-type: none"> <li>○ Added "safety of the child" to every step of the case plan and review process.</li> <li>○ Required criminal record checks for foster/adoptive parents who receive Federal funds on behalf of a child, unless a State opted out.</li> <li>● Accelerated permanent placement:             <ul style="list-style-type: none"> <li>○ Required States to initiate court proceedings to free a child for adoption once that child had been waiting in foster care for at least 15 of the most recent 22 months, unless there is an exception.</li> <li>○ Allowed children to be freed for adoption more quickly in extreme cases.</li> </ul> </li> <li>● Promoted adoptions:             <ul style="list-style-type: none"> <li>○ Rewarded States that increased adoptions with incentive funds.</li> <li>○ Required States to use "reasonable efforts" to move eligible foster care children towards permanent placements.</li> <li>○ Promoted adoptions of all special needs children and ensured health coverage for adopted special needs children.</li> <li>○ Prohibited States from delaying/denying placements of children based on the geographic location of the prospective adoptive families.</li> <li>○ Required States to document and report child-specific adoption efforts.</li> </ul> </li> <li>● Increased accountability:             <ul style="list-style-type: none"> <li>○ Required HHS to establish new outcome measures to monitor and improve State performance.</li> <li>○ Required States to document child-specific efforts to move children into adoptive homes.</li> </ul> </li> <li>● Clarified "Reasonable Efforts:"             <ul style="list-style-type: none"> <li>○ Emphasized children's health and safety.</li> <li>○ Required States to specify situations when services to prevent foster placement and reunification of families are not required.</li> </ul> </li> <li>● Implemented shorter time limits for making decisions about permanent placements:             <ul style="list-style-type: none"> <li>○ Permanency hearings to be held no later than 12 months after entering foster care.</li> <li>○ States must initiate termination of parental rights proceedings after the child has been in foster care 15 of the previous 22 months, except if not in the best interest of the child, or if the child is in care of a relative.</li> </ul> </li> </ul>	

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>D. LEGISLATIVE HISTORY</b>  <i>Text of the Act:</i> <a href="http://www.acf.hhs.gov/programs/cb/laws/index.htm">www.acf.hhs.gov/programs/cb/laws/index.htm</a>  <i>Factsheet the ABA Center on Children &amp; Law:</i>  <a href="http://www.abanet.org/child/adofost.shtml">http://www.abanet.org/child/adofost.shtml</a>  <i>Analysis of the impact of the Act:</i>  <a href="http://www.abanet.org/child/impact.shtml">http://www.abanet.org/child/impact.shtml</a>  <i>Comments on implementation:</i>  <a href="http://www.abanet.org/child/rciji/tenprereqs.html">http://www.abanet.org/child/rciji/tenprereqs.html</a>  <i>GAO report on the impact of the Act on States:</i>  <a href="http://www.gao.gov/">http://www.gao.gov/</a>, Report # GAO-02-585  <i>Discussion of reasonable efforts to ensure permanency:</i>  <a href="http://www.cwla.org/programs/adoption/asfa.htm">www.cwla.org/programs/adoption/asfa.htm</a>  <i>Index of online resources:</i>  <a href="http://www.nicwa.org/policy/law/adoption_safe/index.asp">www.nicwa.org/policy/law/adoption_safe/index.asp</a></p>	P.L. 105-89
38.06.	<p><b>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) OF 1974</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• Public attention to the problem of child abuse was raised in 1961 as a result of the findings from medical reports and medical recognition of Battered Child Syndrome in 1961.</li> <li>• One of every ten children brought to hospital emergency rooms were victims of physical abuse.</li> <li>• A large majority of these cases went unreported.</li> <li>• Federal government was urged to take interest in the welfare of abused and neglected children.</li> <li>• States had developed reporting laws and responses to reports of abuse and neglect, without a lot of uniformity, and federal government sought national uniformity.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To increase identification, reporting, and investigation of child maltreatment, thereby protecting children from harm.</li> <li>• To monitor research and compile and publish materials for persons working in the field.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Mandates appointment of a GAL on every case involving abuse or neglect of a child.</li> <li>• Provided assistance to States to develop child abuse and neglect identification and prevention programs.</li> <li>• Placed moral weight of Federal government behind professional intervention with troubled families.</li> <li>• Enhanced the Federal government's role to be proactive in detection, prevention, and treatment of child abuse.</li> <li>• Authorized limited government research into child abuse prevention and treatment.</li> </ul>	<ul style="list-style-type: none"> <li>• P.L. 93-247</li> <li>• 42 U.S.C. § 5101 et seq</li> <li>• 42 U.S.C. § 5116 et seq</li> <li>• 45 CFR § 1340</li> </ul>

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>38.06 Child Abuse Prevention and Treatment Act of 1974 (continued)</b></p> <ul style="list-style-type: none"> <li>• Created the National Center on Child Abuse and Neglect (NCCAN) within the Department of Health and Human Services to: <ul style="list-style-type: none"> <li>○ Administer grant programs.</li> <li>○ Identify issues and areas needing special focus for new research and demonstration project activities.</li> <li>○ Serve as the focal point for the collection of information, improvement of programs, dissemination of materials, and information on best practices to States and localities.</li> </ul> </li> <li>• Created "Child Welfare Information Gateway": <a href="http://www.childwelfare.gov/">http://www.childwelfare.gov/</a></li> <li>• Established Basic State Grants and Demonstration Grants for training of personnel and to support innovative programs aimed at preventing and treating child maltreatment.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b> <i>Text:</i> <a href="http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta03/INDEX.HTM">HTTP://WWW.ACF.HHS.GOV/PROGRAMS/CB/LAWS_POLICIES/CBLAWS/CAPTA03/INDEX.HTM</a> <i>Summary:</i> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d093:SN01191: TOM:/bss/d093query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d093:SN01191: TOM:/bss/d093query.html</a></p>	<ul style="list-style-type: none"> <li>• P.L. 93-247</li> <li>• 42 U.S.C. § 5101 et seq</li> <li>• 42 U.S.C. § 5116 et seq</li> <li>45 CFR § 1340</li> </ul>
38.07.	<p><b>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) AND ADOPTION REFORM ACT OF 1978</b></p> <p><b>REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03)</li> <li>• Original CAPTA did not cover adoption issues.</li> </ul> <p><b>A. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To reauthorize CAPTA.</li> <li>• To promote the enactment of comprehensive adoption assistance legislation in each State.</li> <li>• To continue funding grant programs for research.</li> <li>• To provide new grants for improving adoption of children with special needs.</li> </ul> <p><b>B. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Established Adoption Opportunities Program to: <ul style="list-style-type: none"> <li>○ Facilitate placement of children with special needs in permanent adoptive homes.</li> <li>○ Promote quality standards for adoptive placement and the rights of adopted children.</li> <li>○ Provide for national adoption information exchange system.</li> </ul> </li> </ul>	P.L. 95-266

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>38.07 Child Abuse Prevention and Treatment Act (CAPTA) and Adoption Reform Act of 1978 (continued)</b></p> <ul style="list-style-type: none"> <li>• Provided for annual summaries of research on child abuse and neglect.</li> </ul> <p><b>C. LEGISLATIVE HISTORY</b>  <b>Text::</b>  <a href="http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/index.htm">http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/index.htm</a></p>	
38.08.	<p><b>CHILD ABUSE AMENDMENTS OF 1984</b></p> <p><b>REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03)</li> </ul> <p><b>A. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To reauthorize and expand the scope of CAPTA legislation.</li> <li>• To provide for the study of incidents involving denial of nutrition, medically indicated treatment, care, or appropriate social services to infants at risk with life-threatening congenital impairments.</li> <li>• To facilitate the adoption of such infants.</li> </ul> <p><b>B. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Required States to have in place procedures with State protective systems to respond to the reporting of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.</li> <li>• Directed HHS to develop regulations, and to provide training and technical assistance needed by care providers, to carry out the provisions of the Act.</li> <li>• Required State-level programs to facilitate adoption opportunities for disabled infants with life-threatening conditions.</li> <li>• Provided for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system.</li> </ul> <p><b>C. LEGISLATIVE HISTORY</b>  Summary: <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d098:HR01904:@@D&amp;summ2=m&amp; TOM:/bss/d098query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d098:HR01904:@@D&amp;summ2=m&amp; TOM:/bss/d098query.html</a></p>	P.L. 98-457
38.09.	<p><b>CHILD ABUSE PREVENTION, ADOPTION AND FAMILY SERVICES ACT OF 1988</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03).</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To broaden the scope of activities authorized under existing programs.</li> <li>• To provide for increased coordination of programs, and of data collection, maintenance, and dissemination.</li> </ul>	P.L. 100-294

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>38.09 Child Abuse Prevention, Adoption and Family Services Act of 1988 (continued)</b></p> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Established the Inter-Agency Task Force on Child Abuse and Neglect with responsibility for programs and activities related to child abuse and neglect.</li> <li>• Broadened the scope of research to include investigative and judicial procedures applicable to child abuse cases; and the national incidence of child abuse and neglect.</li> <li>• Established a national data collection system to include standardized data on false, unfounded, or unsubstantiated cases; and the number of deaths due to child abuse and neglect.</li> <li>• Expanded the Adoption Opportunities program: <ul style="list-style-type: none"> <li>○ To increase the number of minority children placed in adoptive families, with an emphasis on recruitment of and placement with minority families;</li> <li>○ To provide for post-legal adoption services for families who have adopted special needs children;</li> <li>○ To increase the placement of foster care children legally free for adoption.</li> </ul> </li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Summary::</b> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d100:HR01900:@@D&amp;summ2=m&amp; TOM:/bss/d100query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d100:HR01900:@@D&amp;summ2=m&amp; TOM:/bss/d100query.html</a></p>	P.L. 100-294
38.10.	<p><b>CHILD ABUSE, DOMESTIC VIOLENCE, ADOPTION AND FAMILY SERVICES ACT OF 1992</b></p> <p><b>REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03).</li> </ul> <p><b>A. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To revise and extend the authorization of appropriations.</li> <li>• To modify requirements regarding grants to States for child protective services systems, including covering neglect as well as abuse.</li> <li>• To make prevention activities under certain grants community-based.</li> </ul> <p><b>B. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Revised provisions for research and assistance activities to include: <ul style="list-style-type: none"> <li>○ Cultural distinctions relating to child abuse and neglect;</li> <li>○ Culturally sensitive procedures with respect to child abuse cases; and</li> <li>○ The relationship of child abuse and neglect to cultural diversity.</li> </ul> </li> </ul>	P.L. 102-295

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>38.10 Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992 (continued)</b></p> <ul style="list-style-type: none"> <li>• Provided for assisting States in supporting child abuse and neglect prevention activities through community-based child abuse and neglect prevention grants.</li> <li>• Required HHS to provide information and service function related to adoption and foster care, including: <ul style="list-style-type: none"> <li>○ On-site technical assistance;</li> <li>○ National public awareness efforts to unite children in need of adoption with appropriate adoptive parents;</li> <li>○ Operation of a National Resource Center for Special Needs Adoption.</li> </ul> </li> </ul> <p><b>C. LEGISLATIVE HISTORY</b>  <b>Summary:</b> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d102:SN00838:@@D&amp;summ2=m&amp; TOM:/bss/d102query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d102:SN00838:@@D&amp;summ2=m&amp; TOM:/bss/d102query.html</a></p>	
38.11.	<p><b>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) AMENDMENTS OF 1996</b></p> <p><b>REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03).</li> <li>• Immunity to child abuse reporters had led to concerns about false reporting of abuse and neglect.</li> </ul> <p><b>A. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To reauthorize CAPTA.</li> <li>• To reauthorize several other acts related to CAPTA.</li> <li>• To consolidate and reorganize Federal agencies in order to facilitate better child maltreatment research and a more coordinated response to the issues facing the States.</li> </ul> <p><b>B. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Reauthorized CAPTA through Fiscal Year 2001.</li> <li>• Abolished NCCAN and created the Office on Child Abuse and Neglect.</li> <li>• Added new requirements to address the problems of false reports of abuse and neglect, delays in termination of parental rights, and lack of public oversight of child protection.</li> <li>• Required States to institute an expedited TPR process for abandoned infants or when the parent is responsible for the death or serious bodily injury of a child.</li> <li>• Set the minimum definition of child abuse to include death, serious physical or emotional injury, sexual abuse or imminent risk of harm.</li> <li>• Recognized the right of parental exercise of religious beliefs concerning medical care.</li> </ul>	P.L. 104-235





	<b>Federal Law</b>	<b>AUTHORITY</b>
38.14.	<p><b>DEFICIT REDUCTION ACT OF 2005</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>Increased need for court/agency collaboration in order to improve outcomes for abused children.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>To improve data collection related to child protection cases.</li> <li>To improve training for judges, attorneys and others who work in child protection.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>Provides for new court improvement grants for improved data collection and training for judges, attorneys, and other legal personnel in child welfare cases</li> <li>Requires collaboration between courts and agencies</li> <li>Provides for the use of child welfare records in State court proceedings</li> <li>Authorizes appropriations for FY2006 for safe and stable families programs; and revises eligibility requirements for foster care maintenance payments and adoption assistance.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Text:</b>  <a href="http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_171.cfm">http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_171.cfm</a></p>	P.L. 109-171
38.15.	<p><b>FAIR ACCESS FOSTER CARE ACT OF 2005</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>Concern about foster care payments.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>To improve process of foster care payments.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>Amends title IV-E of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Summary:</b> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d109:SN01894:@@D&amp;summ2=m&amp;">http://thomas.loc.gov/cgi-bin/bdquery/z?d109:SN01894:@@D&amp;summ2=m&amp;</a></p>	P.L. 109-113



	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>Summary of major provisions and recent revisions:</b>  <a href="http://www.dss.state.va.us/family/safefam.html">www.dss.state.va.us/family/safefam.html</a>  <b>Review of Family Preservation and Family Support programs:</b>  <a href="http://aspe.os.dhhs.gov/hsp/cyp/fpprogs.htm">http://aspe.os.dhhs.gov/hsp/cyp/fpprogs.htm</a></p>	
38.17.	<p><b>FOSTER CARE INDEPENDENCE ACT OF 1999</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• Concerns for the poor outcomes of former foster youth who "age out" of the child welfare system.</li> <li>• Concerns that States were not adequately preparing youth for the transition from foster care to independent living.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To improve independent living programs for current and former foster youth up to age 21.</li> <li>• To expand access to medical care.</li> <li>• To extend services to age 21 for former foster youth.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Revised the program of grants to States and expanded opportunities for independent living programs providing education, training, and employment services, and financial support for foster youth to prepare for living on their own.</li> <li>• Allowed funds to be used to pay for room and board for former foster youth aged 18 to 21.</li> <li>• Required: <ul style="list-style-type: none"> <li>○ Development of outcome measures to assess State performance in operating independent living programs.</li> <li>○ National data collection on services, the individuals served, and outcomes.</li> </ul> </li> <li>• Mandated that State plans for foster care and adoption assistance include certification that prospective parents will be adequately prepared to provide for the needs of the child, and that such preparation will continue, as necessary, after placement of the child.</li> <li>• Provided States with the option to extend Medicaid coverage to 18 to 21-year olds who have been emancipated from foster care.</li> <li>• Emphasized permanence: Efforts to find a permanent placement may continue concurrently with independent living activities.</li> <li>• Increased funding for adoption incentive payments.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <b>Text of the Act:</b>  <a href="http://www.acf.hhs.gov/programs/cb/laws/index.htm">www.acf.hhs.gov/programs/cb/laws/index.htm</a>  <b>Index of online resources:</b>  <a href="http://www.dss.state.va.us/family/safefam.html">http://www.dss.state.va.us/family/safefam.html</a>  <b>Insights into the Act as it relates to youth access to health care:</b></p>	P.L. 106-169

	Federal Law	AUTHORITY
	<a href="http://www.abanet.org/child/englishgrasso.pdf">http://www.abanet.org/child/englishgrasso.pdf</a> <b>Summary of pending State legislation related to the Act:</b> <a href="http://204.131.235.67/programs/cyf/ILFY.htm">http://204.131.235.67/programs/cyf/ILFY.htm</a> <b>Index of online resources:</b> <a href="http://www.nicwa.org/policy/law/foster/index.asp">http://www.nicwa.org/policy/law/foster/index.asp</a>	
38.18.	<p><b>INDIAN CHILD WELFARE ACT (ICWA) OF 1978</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• State courts were removing a high proportion of Indian children from their families and tribes and placing them in non-Indian environments.</li> <li>• In some States, as many as 25%-35% of Indian children were being placed in foster care; 85% of those children were placed in non-Indian homes.</li> <li>• There was a growing concern that these children were losing their Indian culture and heritage.</li> <li>• The State court systems did not take into consideration the tribal relations of Indian people and the cultural and social standards of Indian communities.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To protect the best interests and stability of Indian children and families.</li> <li>• To establish minimum Federal standards for the removal of Indian children from their homes and for the placement of Indian children in homes that reflect the values of Indian culture.</li> <li>• To raise the standards for termination of parental rights of Indian parents.</li> <li>• To recognize and strengthen the role of Tribal governments in determining child custody issues.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Established minimum Federal standards for the removal of Indian children from their families.</li> <li>• Required Indian children to be placed in foster or adoptive homes that reflect Indian culture.</li> <li>• Provided for assistance to tribes in the operation of child and family service programs.</li> <li>• Created exclusive tribal jurisdiction over all Indian child custody proceedings when requested by tribe, parent, or Indian custodian.</li> <li>• Granted preference to Indian family environments in adoptive or foster care placement.</li> <li>• Provided funds to tribes or non-profit off-reservation Indian organizations or multi-service centers for purpose of improving child welfare services to Indian children and families.</li> <li>• Required State and Federal courts to give full faith and credit to tribal court decrees.</li> </ul>	<ul style="list-style-type: none"> <li>• P.L. 95-608</li> <li>• 25 U.S.C. § 1901</li> </ul>

	<b>Federal Law</b>	<b>AUTHORITY</b>
	<p><b>35.18 Indian Child Welfare Act (ICWA) of 1978 (continued)</b></p> <ul style="list-style-type: none"> <li>Set a “beyond a reasonable doubt” standard of proof for terminating Indian parents' parental rights.</li> </ul> <p><b>D. LEGISLATIVE HISTORY</b>  <i>Text of the Act (see also Appendix to Chapter 34):</i>  <a href="http://www.nicwa.org/policy/law/icwa/index.asp">http://www.nicwa.org/policy/law/icwa/index.asp</a>  <i>Discussion on practice issues:</i>  <a href="http://www.abanet.org/genpractice/lawyer/complete/f95child.html">www.abanet.org/genpractice/lawyer/complete/f95child.html</a>  <i>California judges ICWA bench guide:</i>  <a href="http://calindian.org/icwa.htm">http://calindian.org/icwa.htm</a></p>	<ul style="list-style-type: none"> <li>P.L. 95-608</li> <li>25 U.S.C. § 1901</li> </ul>
38.19.	<p><b>INTERCOUNTRY ADOPTION ACT OF 2000</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>The United States needed Federal legislation to ratify the Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption.</li> <li>Hague Convention sets minimum standards and procedures for adoptions between implementing countries that: <ul style="list-style-type: none"> <li>Prevents abuses such abduction or sale of children.</li> <li>Ensures proper consent for the adoption.</li> <li>Allows for the child's transfer to the receiving country.</li> <li>Establishes the adopted child's status in the receiving country.</li> </ul> </li> </ul> <p><b>B. OBJECTIVE/GOAL</b></p> <ul style="list-style-type: none"> <li>To provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>The U.S. Central Authority to be established within the Department of State with general responsibility for U.S. implementation of the Convention and annual reports to Congress.</li> <li>The State Department to enter into agreements with one or more qualified accrediting entities to provide for the accreditation of agencies (non-profit) and approval of persons (for-profit agencies and individuals) who seek to provide adoption services for adoptions covered by the Convention.</li> <li>Accrediting entities to (1) process applications for accreditation/approval, (2) be responsible for oversight, enforcement of compliance by adoption service providers with the Convention, IAA and implementing regulations, and (3) perform information collection activities.</li> <li>State and INS to establish a case registry for all intercountry adoptions-incoming, outgoing, Hague Convention cases and others.</li> </ul>	<ul style="list-style-type: none"> <li>P.L. 106-279</li> <li>42 U.S.C. § 14901 et seq.</li> </ul>





	<b>Federal Law</b>	<b>AUTHORITY</b>
38.21.	<p><b>KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003</b></p> <p><b>A. REASONS BILL INITIATED</b></p> <ul style="list-style-type: none"> <li>• CAPTA needed reauthorization (see section 35.03).</li> <li>• Concern that many children and families fail to receive adequate protection or treatment.</li> </ul> <p><b>B. OBJECTIVES/GOALS</b></p> <ul style="list-style-type: none"> <li>• To reauthorize CAPTA.</li> <li>• To reauthorize Adoption Opportunities, Abandoned Infants Assistance, and Family Violence Prevention and Services Acts.</li> </ul> <p><b>C. SERVICES PROVIDED/MEASURES TAKEN</b></p> <ul style="list-style-type: none"> <li>• Reauthorizes CAPTA through Fiscal Year 2008.</li> <li>• Implements an expanded continuing interdisciplinary and longitudinal research program; provides for an opportunity for public comment on research priorities.</li> <li>• Emphasizes enhanced linkages between child protective service agencies and public health, mental health, and developmental disabilities agencies.</li> <li>• Mandates changes to State plan eligibility requirements, including: <ul style="list-style-type: none"> <li>○ Policies and procedures to address the needs of infants born and identified as being affected by prenatal drug exposure;</li> <li>○ Provisions and procedures to require CPS representative at the initial contact advise an individual of complaints and allegations made against them;</li> <li>○ Provisions addressing the training of CPS workers regarding their legal duties in order to protect the legal rights and safety of children and families;</li> <li>○ Provisions to require a State to disclose confidential information to any Federal, State or local government entity with a need for such information.</li> </ul> </li> <li>• Implements programs to increase the number of older foster children placed in adoptive families, including a grants program to eliminate barriers to placing children for adoption across jurisdictional boundaries.</li> <li>• Amends the Abandoned Infants Assistance grants program to prohibit grants unless the applicant agrees to give priority to infants and young children who: <ul style="list-style-type: none"> <li>○ Are infected with or exposed to the human immunodeficiency virus or have a life-threatening illness; or</li> <li>○ Have been perinatally exposed to a dangerous drug.</li> </ul> </li> </ul> <p><b>D. LEGISLATIVE HISTORY</b></p> <p><b>Text of Act:</b>  <a href="http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2003/im0304.htm">http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2003/im0304.htm</a></p> <p><b>Summary:</b> <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN00342:@@D&amp;summ2=m&amp; TOM:/bss/d108query.html">http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN00342:@@D&amp;summ2=m&amp; TOM:/bss/d108query.html</a></p>	P.L. 108-36







