

CHAPTER 35

OVERVIEW OF FEDERAL LAWS

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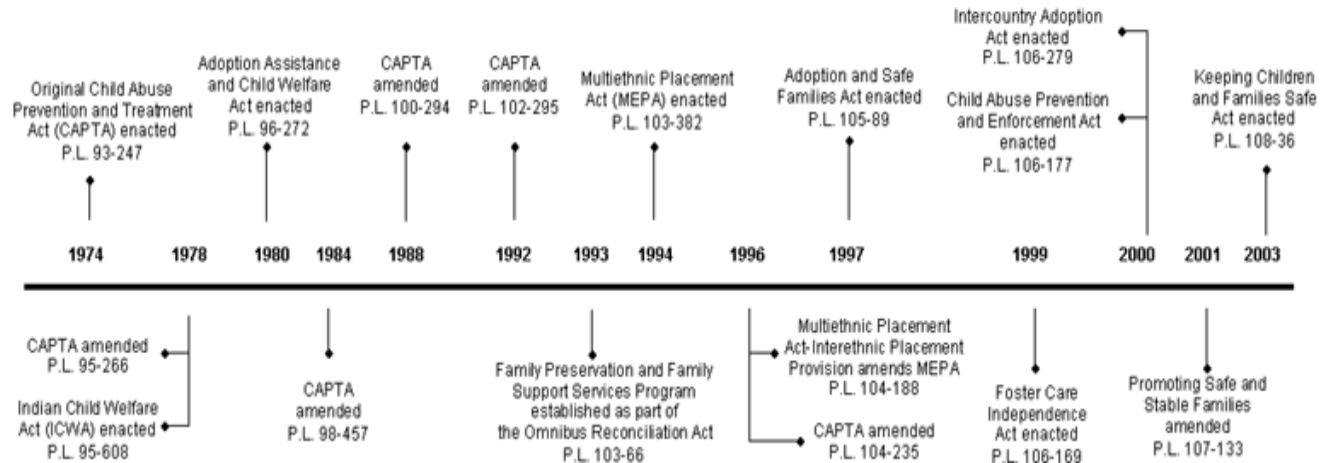
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Timeline of Major Federal Legislation Concerned with Child Protection, Child Welfare, and Adoption



- **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.

	Federal Law	AUTHORITY
35.01.	<p>OVERVIEW OF CHAPTER</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.¹ 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>	
35.02.	<p>BACKGROUND</p> <p>A. FEDERAL GOVERNMENT ROLE</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.² 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: http://www.acf.hhs.gov/programs/cb/index.htm</p> <p>B. STATE GOVERNMENT ROLE</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</i>, Child Welfare Information Gateway, Children's Bureau, U.S. Dept. of Health and Human Services (Oct. 2003)</p>

¹ 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.

² 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.

	Federal Law	AUTHORITY
35.03.	<p>ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Concern about children being sexually abused and exploited <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To protection children from sexual exploitation and violent crime • To prevent child abuse and child pornography • To promote Internet safety. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Requires national criminal background and child abuse registry checks before approval of any foster or adoptive placement. • Requires the Department of Health and Human Services to establish a national registry of substantiated cases of child abuse and neglect. <p>D. LEGISLATIVE HISTORY</p> <p><i>Text:</i> http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_248.cfm</p>	P.L. 109-248
35.04.	<p>ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Initiated in response to discontent with the public child welfare system. • 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. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To prevent unnecessary separation of children from families. • To protect the autonomy of the family. • To shift support of Federal government away from foster care alone and towards placement prevention and reunification. • To promote the return of children to their families when feasible. • To encourage adoption when it is in the child's best interest. • To improve the quality of care and services. • To reduce the number of children in foster care. • To reduce the duration of a child's stay in foster care. 	P.L. 96-272

	Federal Law	AUTHORITY
	<p>35.04 Adoption Assistance and Child Welfare Act of 1980 (continued)</p> <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • 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. • Defined a child with special needs as a child who: <ul style="list-style-type: none"> o Cannot be returned to the parent's home; o Has a special condition such that the child cannot be placed without providing assistance; and o 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 who have been removed as soon as possible. • Required participating States to establish reunification and preventive programs for all in foster care. • 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. • 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. • 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. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d096:HR03434:@@D TOM:/bss/d096query.html</p>	P.L. 96-272
35.05	<p>ADOPTION AND SAFE FAMILIES ACT (ASFA) OF 1997</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Many children in foster care were waiting several years for permanent placement. • The focus on "reasonable efforts" to reunify children with their families had led to some placement decisions that were not in 	P.L. 105-89

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Federal Law	AUTHORITY
<p>35.05 Adoption and Safe Families Act (ASFA) of 1997 (continued)</p> <p>the best interests of the child and not adequately focused on child safety.</p> <ul style="list-style-type: none"> • 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. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To promote permanency for children in foster care. • To ensure safety for abused and neglected children. • To accelerate permanent placements of children. • To increase accountability of the child welfare system. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Reauthorized the Family Preservation and Support Services Program: <ul style="list-style-type: none"> o Renamed it the Safe and Stable Families Program. o Extended categories of services to include time-limited reunification services and adoption promotion and support services. • Ensured safety for abused and neglected children: <ul style="list-style-type: none"> o Ensured health and safety concerns are addressed when a State determines placement for abused and neglected children. o Required HHS to report on the scope of substance abuse in the child welfare population, and the outcomes of services provided to that population. o Added "safety of the child" to every step of the case plan and review process. o Required criminal record checks for foster/adoptive parents who receive Federal funds on behalf of a child, unless a State opted out. • Accelerated permanent placement: <ul style="list-style-type: none"> o 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. o Allowed children to be freed for adoption more quickly in extreme cases. • Promoted adoptions: <ul style="list-style-type: none"> o Rewarded States that increased adoptions with incentive funds. 	<p>P.L. 105-89</p>

Federal Law	AUTHORITY
<p>35.05 Adoption and Safe Families Act (ASFA) of 1997 (continued)</p> <ul style="list-style-type: none"> o Required States to use "reasonable efforts" to move eligible foster care children towards permanent placements. o Promoted adoptions of all special needs children and ensured health coverage for adopted special needs children. o Prohibited States from delaying/denying placements of children based on the geographic location of the prospective adoptive families. o Required States to document and report child-specific adoption efforts. • Increased accountability: <ul style="list-style-type: none"> o Required HHS to establish new outcome measures to monitor and improve State performance. o Required States to document child-specific efforts to move children into adoptive homes. • Clarified "Reasonable Efforts:" <ul style="list-style-type: none"> o Emphasized children's health and safety. o Required States to specify situations when services to prevent foster placement and reunification of families are not required. • Implemented shorter time limits for making decisions about permanent placements: <ul style="list-style-type: none"> o Permanency hearings to be held no later than 12 months after entering foster care. o 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. <p>D. LEGISLATIVE HISTORY <i>Text of the Act:</i> www.acf.hhs.gov/programs/cb/laws/index.htm <i>Factsheet the ABA Center on Children & Law:</i> http://www.abanet.org/child/adofost.shtml <i>Analysis of the impact of the Act:</i> http://www.abanet.org/child/impact.shtml <i>Comments on implementation:</i> http://www.abanet.org/child/rciji/tenprereqs.html <i>GAO report on the impact of the Act on States:</i> http://www.gao.gov/, Report # GAO-02-585 <i>Discussion of reasonable efforts to ensure permanency:</i></p>	<p>P.L. 105-89</p>

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	Federal Law	AUTHORITY
	www.cwla.org/programs/adoption/asfa.htm <i>Index of online resources:</i> www.nicwa.org/policy/law/adoption_safe/index.asp	
35.06.	<p>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) OF 1974</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • 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. • One of every ten children brought to hospital emergency rooms were victims of physical abuse. • A large majority of these cases went unreported. • Federal government was urged to take interest in the welfare of abused and neglected children. • States had developed reporting laws and responses to reports of abuse and neglect, without a lot of uniformity, and federal government sought national uniformity. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To increase identification, reporting, and investigation of child maltreatment, thereby protecting children from harm. • To monitor research and compile and publish materials for persons working in the field. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Mandates appointment of a GAL on every case involving abuse or neglect of a child. • Provided assistance to States to develop child abuse and neglect identification and prevention programs. • Placed moral weight of Federal government behind professional intervention with troubled families. • Enhanced the Federal government's role to be proactive in detection, prevention, and treatment of child abuse. • Authorized limited government research into child abuse prevention and treatment. • 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"> o Administer grant programs. o Identify issues and areas needing special focus for new research and demonstration project activities. o 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. 	<ul style="list-style-type: none"> • P.L. 93-247 • 42 U.S.C. § 5101 et seq • 42 U.S.C. § 5116 et seq • 45 CFR § 1340

	Federal Law	AUTHORITY
	<ul style="list-style-type: none"> Created “Child Welfare Information Gateway”: http://www.childwelfare.gov/ <p>35.06 Child Abuse Prevention and Treatment Act (CAPTA) of 1974 (continued)</p> <ul style="list-style-type: none"> Established Basic State Grants and Demonstration Grants for training of personnel and to support innovative programs aimed at preventing and treating child maltreatment. <p>D. LEGISLATIVE HISTORY <i>Text:</i> HTTP://WWW.ACF.HHS.GOV/PROGRAMS/CB/LAWS_POLICIES/CBLAWS/CAPTA03/INDEX.HTM <i>Summary:</i> http://thomas.loc.gov/cgi-bin/bdquery/z?d093:SN01191: TOM:/bss/d093query.html</p>	<ul style="list-style-type: none"> P.L. 93-247 42 U.S.C. § 5101 et seq 42 U.S.C. § 5116 et seq 45 CFR § 1340
35.07.	<p>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) AND ADOPTION REFORM ACT OF 1978</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> CAPTA needed reauthorization (see section 35.03) Original CAPTA did not cover adoption issues. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> To reauthorize CAPTA. To promote the enactment of comprehensive adoption assistance legislation in each State. To continue funding grant programs for research. To provide new grants for improving adoption of children with special needs. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> Established Adoption Opportunities Program to: <ul style="list-style-type: none"> Facilitate placement of children with special needs in permanent adoptive homes. Promote quality standards for adoptive placement and the rights of adopted children. Provide for national adoption information exchange system. Provided for annual summaries of research on child abuse and neglect. <p>D. LEGISLATIVE HISTORY <i>Text::</i></p>	P.L. 95-266

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	Federal Law	AUTHORITY
	http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/index.htm	
35.08.	<p>CHILD ABUSE AMENDMENTS OF 1984</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • CAPTA needed reauthorization (see section 35.03) <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To reauthorize and expand the scope of CAPTA legislation. • 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. • To facilitate the adoption of such infants. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • 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. • Directed HHS to develop regulations, and to provide training and technical assistance needed by care providers, to carry out the provisions of the Act. • Required State-level programs to facilitate adoption opportunities for disabled infants with life-threatening conditions. • Provided for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d098:HR01904:@@D&summ2=m& TOM:/bss/d098query.html</p>	P.L. 98-457
35.09.	<p>CHILD ABUSE PREVENTION, ADOPTION AND FAMILY SERVICES ACT OF 1988</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • CAPTA needed reauthorization (see section 35.03). <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To broaden the scope of activities authorized under existing programs. 	P.L. 100-294

	Federal Law	AUTHORITY
	<ul style="list-style-type: none"> To provide for increased coordination of programs, and of data collection, maintenance, and dissemination. <p>35.09 Child Abuse Prevention, Adoption and Family Services Act of 1988 (continued)</p> <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> Established the Inter-Agency Task Force on Child Abuse and Neglect with responsibility for programs and activities related to child abuse and neglect. 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. 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. Expanded the Adoption Opportunities program: <ul style="list-style-type: none"> 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; To increase the placement of foster care children legally free for adoption. <p>D. LEGISLATIVE HISTORY Summary:: http://thomas.loc.gov/cgi-bin/bdquery/z?d100:HR01900:@@D&summ2=m& TOM:/bss/d100query.html</p>	P.L. 100-294
35.10	<p>CHILD ABUSE, DOMESTIC VIOLENCE, ADOPTION AND FAMILY SERVICES ACT OF 1992</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> CAPTA needed reauthorization (see section 35.03). <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> To revise and extend the authorization of appropriations. To modify requirements regarding grants to States for child protective services systems, including covering neglect as well as abuse. To make prevention activities under certain grants community-based. 	P.L. 102-295

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	Federal Law	AUTHORITY
	<p>35.10 Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992 (continued)</p> <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Revised provisions for research and assistance activities to include: <ul style="list-style-type: none"> o Cultural distinctions relating to child abuse and neglect; o Culturally sensitive procedures with respect to child abuse cases; and o The relationship of child abuse and neglect to cultural diversity. • Provided for assisting States in supporting child abuse and neglect prevention activities through community-based child abuse and neglect prevention grants. • Required HHS to provide information and service function related to adoption and foster care, including: <ul style="list-style-type: none"> o On-site technical assistance; o National public awareness efforts to unite children in need of adoption with appropriate adoptive parents; o Operation of a National Resource Center for Special Needs Adoption. <p>D. LEGISLATIVE HISTORY <i>Summary:</i> http://thomas.loc.gov/cgi-bin/bdquery/z?d102:SN00838:@@D&summ2=m& TOM:/bss/d102query.html</p>	P.L. 102-295
35.11.	<p>CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) AMENDMENTS OF 1996</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • CAPTA needed reauthorization (see section 35.03). • Immunity to child abuse reporters had led to concerns about false reporting of abuse and neglect. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To reauthorize CAPTA. • To reauthorize several other acts related to CAPTA. • 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. 	P.L. 104-235

	Federal Law	AUTHORITY
	<p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Reauthorized CAPTA through Fiscal Year 2001. • Abolished NCCAN and created the Office on Child Abuse and Neglect. <p>35.11 Child Abuse Prevention and Treatment Act (CAPTA) Amendments of 1996 (continued)</p> <ul style="list-style-type: none"> • 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. • 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. • Set the minimum definition of child abuse to include death, serious physical or emotional injury, sexual abuse or imminent risk of harm. • Recognized the right of parental exercise of religious beliefs concerning medical care. • Continued the Community-Based Family Resource and Support Grants Program, the Adoption Opportunities Act, Abandoned Infants Assistance Act, Victims of Child Abuse Act, Children's Justice Act Grants, and the Missing Children's Assistance Act. <p>D. LEGISLATIVE HISTORY <i>Text of the Amendments:</i> http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/index.htm <i>Summary of key changes made to CAPTA by the 1996 amendments visit:</i> http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/index.htm</p>	P.L. 104-235
35.12	<p>CHILD ABUSE PREVENTION AND ENFORCEMENT ACT OF 2000</p> <p>A. REASON BILL INITIATED</p> <ul style="list-style-type: none"> • Concern about inadequate responses to reports of child maltreatment. <p>B. OBJECTIVE/GOALS</p> <ul style="list-style-type: none"> • To address concerns about the level and quality of responses to reports of child maltreatment. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p>	P.L. 106-177

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	Federal Law	AUTHORITY
	<ul style="list-style-type: none"> • Authorized use of Federal law enforcement funds by States to improve the criminal justice system in order to provide timely, accurate, and complete criminal history record information to child welfare agencies, organizations, and programs that are engaged in the assessment of activities related to the protection of children, including protection against child sexual abuse, and placement of children in foster care. <p>35.12 Child Abuse Prevention and Enforcement Act of 2000 (continued)</p> <ul style="list-style-type: none"> • Allowed the use of Federal grants by law enforcement: <ul style="list-style-type: none"> o To enforce child abuse and neglect laws, including laws protecting against child sexual abuse. o To promote programs designed to prevent child abuse and neglect. o To establish or support cooperative programs between law enforcement and media organizations to collect, record, retain, and disseminate information useful in the identification and apprehension of suspected criminal offenders. • Increased the amount of Federally collected funds available to the States for implementation of State Children's Justice Act reforms. <p>D. LEGISLATIVE HISTORY www.acf.hhs.gov/programs/cb/laws/index.htm</p>	<p>P.L. 106-177</p>
35.13.	<p>CHILD AND FAMILY SERVICES ACT OF 2006</p> <p>A. REASON BILL INITIATED</p> <ul style="list-style-type: none"> • Need to reauthorize the Promoting Safe and Stable Families through 2011. <p>B. OBJECTIVE/GOALS</p> <ul style="list-style-type: none"> • To reauthorizes the Promoting Safe and Stable Families (PSSF) program through FY2011, and increases set-asides for Indian tribes. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • The Act reserves funds for States to develop activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology, as well as to support monthly caseworker visits to children in foster care. • Requires the Secretary to reserve specified amounts for FY2007-FY2011 for awarding targeted grants to increase the well-being of, and to improve the permanency outcomes for, 	<p>P.L. 109-288</p>

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	<p>children affected by methamphetamine or other substance abuse.</p> <ul style="list-style-type: none"> • Authorizes the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of <p>35.13 Child and Family Services Act of 2006 (continued)</p> <p>children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse.</p> <ul style="list-style-type: none"> • Requires each state plan for child welfare services to describe standards for the content and frequency of caseworker visits for children in foster care under state responsibility which, at a minimum, ensure that: (1) the children are visited on a monthly basis; and (2) the visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the children's safety, permanency, and well-being. • Reauthorizes and extends through FY2011 the court improvement program. • Amends SSA title IV part E to require a foster care proceeding to include, in an age-appropriate manner, consultation with the child that is the subject of the proceeding. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d109:SN03525:@@D&summ2=m&TOM:/bss/d109query.html</p>	P.L. 109-288
35.14.	<p>DEFICIT REDUCTION ACT OF 2005</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Increased need for court/agency collaboration in order to improve outcomes for abused children. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To improve data collection related to child protection cases. • To improve training for judges, attorneys and others who work in child protection. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Provides for new court improvement grants for improved data collection and training for judges, attorneys, and other legal personnel in child welfare cases 	P.L. 109-171

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	<ul style="list-style-type: none"> • Requires collaboration between courts and agencies • Provides for the use of child welfare records in State court proceedings • Authorizes appropriations for FY2006 for safe and stable families programs; and revises eligibility requirements for foster care maintenance payments and adoption assistance. <p>35.14 Deficit Reduction Act of 2005 (continued)</p> <p>D. LEGISLATIVE HISTORY Text: http://www.childwelfare.gov/systemwide/laws_policies/federal/pl109_171.cfm</p>	P.L. 109-171
35.15.	<p>FAIR ACCESS FOSTER CARE ACT OF 2005</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Concern about foster care payments. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To improve process of foster care payments. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Amends title IV-E of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d109:SN01894:@@D&summ2=m&</p>	P.L. 109-113
35.16.	<p>FAMILY PRESERVATION AND SUPPORT SERVICES PROGRAM OF 1993</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • The number of reported and substantiated abuse and neglect cases was rising. • The focus of services needed to be changed from crisis intervention to prevention. • Services often did not fit the real needs of families. • Child welfare services were often isolated from other services needed by vulnerable families. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To promote the safety and well-being of all family members. • To enhance parental ability to create a safe, stable, nurturing 	P.L. 103-66 P.L. 103-66

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	<p>home.</p> <ul style="list-style-type: none"> • To assist families in resolving crises and connect them with services that would enable children to remain safely at home. • To prevent the need for out-of-home placement. • To help children already in placement return home or enter another permanent living arrangement. • To promote family strength and stability. <p>35.16 Family Preservation and Support Services Program of 1993 (continued)</p> <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Encouraged States to use funds to create a continuum of family-focused services for "at risk" children and families. • Required States to engage in a comprehensive planning process to develop more responsive family support and preservation strategies. • Encouraged States to: 1) Use funds to integrate preventive services into treatment-oriented child welfare systems. 2) Improve service coordination within and across State service agencies. 3) Engage broad segments of the community in program planning at State and local levels. • Broadened the definition of "family" to include people needing services regardless of family configuration: biological, adoptive, foster, extended, or self-defined. • Defined services to be provided by the States: <ul style="list-style-type: none"> o Preservation: activities designed to assist families in crisis, often where the child is at risk of being placed in out-of-home care because of abuse and/or neglect. o Support: Preventive activities, typically provided by community-based organizations, designed to improve nurturing of children and strengthen and enhance stability of families. <p>D. LEGISLATIVE HISTORY Summary of the legislation: http://thomas.loc.gov/cgi-bin/bdquery/z?d103:HR02264:@@D&summ2=m&TOM:/bss/d103query.html Summary of major provisions and recent revisions: www.dss.state.va.us/family/safefam.html Review of Family Preservation and Family Support programs: http://aspe.os.dhhs.gov/hsp/cyp/fpprogs.htm</p>	<p>P.L. 103-66</p>
35.17	FOSTER CARE INDEPENDENCE ACT OF 1999	P.L. 106-169

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<p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Concerns for the poor outcomes of former foster youth who "age out" of the child welfare system. • Concerns that States were not adequately preparing youth for the transition from foster care to independent living. <p>35.17 Foster Care Independence Act of 1999 (continued)</p> <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To improve independent living programs for current and former foster youth up to age 21. • To expand access to medical care. • To extend services to age 21 for former foster youth. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • 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. • Allowed funds to be used to pay for room and board for former foster youth aged 18 to 21. • Required: <ul style="list-style-type: none"> ○ Development of outcome measures to assess State performance in operating independent living programs. ○ National data collection on services, the individuals served, and outcomes. • 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. • Provided States with the option to extend Medicaid coverage to 18 to 21-year olds who have been emancipated from foster care. • Emphasized permanence: Efforts to find a permanent placement may continue concurrently with independent living activities. • Increased funding for adoption incentive payments. <p>D. LEGISLATIVE HISTORY <i>Text of the Act:</i> www.acf.hhs.gov/programs/cb/laws/index.htm <i>Index of online resources:</i></p>	<p>P.L. 106-169</p>

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	<p>http://www.dss.state.va.us/family/safefam.html <i>Insights into the Act as it relates to youth access to health care:</i> http://www.abanet.org/child/englishgrasso.pdf <i>Summary of pending State legislation related to the Act:</i> http://204.131.235.67/programs/cyf/ILFY.htm <i>Index of online resources:</i> http://www.nicwa.org/policy/law/foster/index.asp</p>	
35.18.	<p>INDIAN CHILD WELFARE ACT (ICWA) OF 1978</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • State courts were removing a high proportion of Indian children from their families and tribes and placing them in non-Indian environments. • 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. • There was a growing concern that these children were losing their Indian culture and heritage. • The State court systems did not take into consideration the tribal relations of Indian people and the cultural and social standards of Indian communities. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To protect the best interests and stability of Indian children and families. • 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. • To raise the standards for termination of parental rights of Indian parents. • To recognize and strengthen the role of Tribal governments in determining child custody issues. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Established minimum Federal standards for the removal of Indian children from their families. • Required Indian children to be placed in foster or adoptive homes that reflect Indian culture. • Provided for assistance to tribes in the operation of child and family service programs. • Created exclusive tribal jurisdiction over all Indian child custody proceedings when requested by tribe, parent, or 	<ul style="list-style-type: none"> • P.L. 95-608 • 25 U.S.C. § 1901

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	<p>Indian custodian.</p> <ul style="list-style-type: none"> • Granted preference to Indian family environments in adoptive or foster care placement. • 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. • Required State and Federal courts to give full faith and credit to tribal court decrees. • Set a “beyond a reasonable doubt” standard of proof for terminating Indian parents' parental rights. <p>35.18 Indian Child Welfare Act (ICWA) of 1978 (continued)</p> <p>D. LEGISLATIVE HISTORY <i>Text of the Act (see also Appendix to Chapter 34):</i> http://www.nicwa.org/policy/law/icwa/index.asp <i>Discussion on practice issues:</i> www.abanet.org/genpractice/lawyer/complete/f95child.html <i>California judges ICWA bench guide:</i> http://calindian.org/icwa.htm</p>	<ul style="list-style-type: none"> • P.L. 95-608 • 25 U.S.C. § 1901
35.19.	<p>INTERCOUNTRY ADOPTION ACT OF 2000</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • The United States needed Federal legislation to ratify the Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption. • Hague Convention sets minimum standards and procedures for adoptions between implementing countries that: <ul style="list-style-type: none"> o Prevents abuses such abduction or sale of children. o Ensures proper consent for the adoption. o Allows for the child's transfer to the receiving country. o Establishes the adopted child's status in the receiving country. <p>B. OBJECTIVE/GOAL</p> <ul style="list-style-type: none"> • To provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • 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. • The State Department to enter into agreements with one or 	<ul style="list-style-type: none"> • P.L. 106-279 • 42 U.S.C. § 14901 et seq.

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	<p>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.</p> <ul style="list-style-type: none"> • 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. <p>35.19 Intercountry Adoption Act of 2000 (continued)</p> <ul style="list-style-type: none"> • U.S. adoption service providers to be authorized to provide services for Convention adoptions only if they have been Convention-accredited or -approved. • State and INS to establish a case registry for all intercountry adoptions-incoming, outgoing, Hague Convention cases and others. • The State Department to: <ul style="list-style-type: none"> o Monitor each accrediting entity's performance of its duties and their compliance with the Convention, the <i>Intercountry Adoption Act (IAA)</i> and applicable regulations. o Issue certificates to cover Convention adoptions/placements for adoption made in the United States necessary for their recognition so long as the Department has received appropriate documentation to establish that the requirements of the Convention, IAA and regulations have been met. • Convention adoptions finalized in other countries party to the Convention to be recognized throughout the United States. • The procedures and requirements to be followed for the adoption of a child residing in the United States by persons resident in other countries party to the Convention. • Certain case-specific duties to be performed by the accredited agency, the approved person, or the prospective adoptive parents acting on their own behalf if permitted by both countries involved. • State courts to be prohibited from finalizing Convention adoptions or granting custody for a Convention adoption unless such a court has verified that the required determinations have been made by the country of origin and the receiving country. • The Immigration and Nationality Act to be amended to provide 	<ul style="list-style-type: none"> • P.L. 106-279 • 42 U.S.C. § 14901 et seq.

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	<p>for a new category of children adopted, or to be adopted, under the Hague Convention and meeting other requirements to qualify for immigrant visas.</p> <ul style="list-style-type: none"> • The preservation of Convention records on individual adoptions held by the State Department and INS without affecting federal laws concerning access to identifying information. • The admissibility of documents with regard to Convention adoptions without their legalization/authentication. • State laws/provisions of law to be preempted only to the extent that they are inconsistent with the IAA, and the Indian Child Welfare Act to remain unaffected by the IAA. <p>D. LEGISLATIVE HISTORY Text of the Act: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_bills&docid=f:h2909enr.pdf Summary of provisions: http://www.abanet.org/family/committees/adoption-status-report.doc INS information sheet: http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=009a98751de7d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=063807b03d92b010VgnVCM10000045f3d6a1RCRD</p>	<ul style="list-style-type: none"> • P.L. 106-279 • 42 U.S.C. § 14901 et seq.
35.20.	<p>INTERETHNIC ADOPTION PROVISIONS OF THE SMALL BUSINESS JOB PROTECTION ACT OF 1996</p> <p>A. REASON BILL INITIATED</p> <ul style="list-style-type: none"> • To eliminate discrimination on the basis of race, color or national origin against prospective foster and adoptive parents as well as discrimination against children who are waiting for foster and/or adoptive placements. • To repeal part of the Multiethnic Placement Act of 1994, including the "Permissible Consideration" section. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To affirm and strengthen existing prohibitions against discrimination in foster care and adoption placements. • To affirm prohibitions against routinely considering race, color or national origin when making foster care and/or adoption placement decisions. • To affirm required diligent recruitment efforts. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Established title IV-E State Plan requirement that States and 	P.L. 104-188, Title I, Subtitle H(1808)

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	<p>other entities that receive funds from the Federal government and are involved in foster care or adoption placements may not deny any individual the opportunity to become a foster or adoptive parent based upon the race, color or national origin of the parent or the child.</p> <ul style="list-style-type: none"> Established title IV-E State Plan requirement that States and other entities that receive funds from the Federal government and involved in foster care or adoption placements may not delay or deny a child's foster care or adoptive placement based upon the race, color or national origin of the parent or the child. <p>35.20 Interethnic Adoption Provisions of The Small Business Job Protection Act of 1996 (continued)</p> <ul style="list-style-type: none"> Strengthened MEPA's diligent recruitment requirement by making it a title IV-B State Plan requirement. Subjects States and other entities to graduated financial penalties if they do not comply with the title IV-E State Plan requirement established under this law. Repealed language in MEPA that allowed States and other entities to consider the "cultural, ethnic or racial background" of a child, as well as the "capacity" of the prospective parent to meet the needs of such a child. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d104:HR03448:@@D&summ2=m& TOM:/bss/d104query.html Index of online resources: http://www.hhs.gov/ocr/mepa/ Guide to MEPA as amended by IEP: http://www.abanet.org/ftp/pub/child/mepa.txt</p>	<p>P.L. 104-188, Title I, Subtitle H(1808)</p>
35.21	<p>KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> CAPTA needed reauthorization (see section 35.03). Concern that many children and families fail to receive adequate protection or treatment. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> To reauthorize CAPTA. 	<p>P.L. 108-36</p>

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<ul style="list-style-type: none"> • To reauthorize Adoption Opportunities, Abandoned Infants Assistance, and Family Violence Prevention and Services Acts. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Reauthorizes CAPTA through Fiscal Year 2008. • Implements an expanded continuing interdisciplinary and longitudinal research program; provides for an opportunity for public comment on research priorities. • Emphasizes enhanced linkages between child protective service agencies and public health, mental health, and developmental disabilities agencies. <p>35.21 Keeping Children and Families Safe Act of 2003 (continued)</p> <ul style="list-style-type: none"> • Mandates changes to State plan eligibility requirements, including: <ul style="list-style-type: none"> o Policies and procedures to address the needs of infants born and identified as being affected by prenatal drug exposure; o Provisions and procedures to require CPS representative at the initial contact advise an individual of complaints and allegations made against them; o Provisions addressing the training of CPS workers regarding their legal duties in order to protect the legal rights and safety of children and families; o Provisions to require a State to disclose confidential information to any Federal, State or local government entity with a need for such information. • 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. • 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"> o Are infected with or exposed to the human immunodeficiency virus or have a life-threatening illness; or o Have been perinatally exposed to a dangerous drug. <p>D. LEGISLATIVE HISTORY <i>Text of Act:</i> http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2003/im0304.htm</p>	<p>P.L. 108-36</p>

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	<ul style="list-style-type: none"> Made failure to comply with MEPA a violation of title VI of the Civil Rights Act. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d103:HR00006:@@D&summ2=m& TOM:/bss/d103query.html Index of online resources: http://www.hhs.gov/ocr/mepa/ Discussion of MEPA and its amendments and their potential impact on Indian children: http://www.nicwa.org/policy/law/multiethnic/index.asp</p>	
35.23.	<p>PROMOTING SAFE AND STABLE FAMILIES AMENDMENTS OF 2001</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> Continued need to protect children and strengthen families. Rapid increase in numbers of adoptions has created a need for post-adoption services. Concern for the rise in the number of children with incarcerated parents and the negative outcomes for some of these children. Youth who age out of foster care lag behind other youth in educational attainment. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> To encourage and enable States to develop or expand programs of family preservation services, community-based family support services, adoption promotion and support services, and time-limited family reunification services. To reduce risk behavior by children with incarcerated parents by providing one-on-one relationships with adult mentors. To continue improvements in State courts systems as required by ASFA. To provide educational opportunities for youth aging out of foster care. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> Amended title IV-B, subpart 2 of the Social Security Act Added findings to illustrate the need for programs addressing families at risk for abuse and neglect and those adopting children from foster care. Definition of family preservation services amended to include 	P.L. 107-133

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	<p>infant safe haven programs.</p> <ul style="list-style-type: none"> • Added strengthening parental relationships and promoting healthy marriages to list of allowable activities. • New focus added to the research, evaluation and technical assistance activities. • Allowed reallocation of unused funds in title IV-B, subpart 2. • Created a matching grant program to support mentoring networks for children of prisoners. • Reauthorized funds for the Court Improvement Program. • Authorized a voucher program as part of the John H. Chafee Foster Care Independence Program. <p>35.23 Promoting Safe and Stable Families Amendments of 2001 (continued)</p> <p>D. LEGISLATIVE HISTORY Text: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ133.107 Summary: www.cwla.org/advocacy/pssf.htm</p>	P.L. 107-133
35.24.	<p>SAFE AND TIMELY INTERSTATE PLACEMENT OF FOSTER CHILDREN ACT OF 2006</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Concerns regarding procedures placing children in other states. <p>B. OBJECTIVES/GOALS</p> <ul style="list-style-type: none"> • To improve practice related to interstate placement of children. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Requires each State plan for foster care and adoption assistance to provide that the State shall <ul style="list-style-type: none"> ○ have procedures for orderly and timely interstate placement of children; ○ complete home studies requested by another State within a specified period; ○ and accept home studies received from another State. • Requires each State to: <ul style="list-style-type: none"> ○ have in effect procedures for orderly and timely interstate 	P.L. 109-239

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	<p>placement of children;</p> <ul style="list-style-type: none"> o complete home studies requested by another state within a specified period; o accept such studies received from another state; o not impose any restrictions on contracting with a private agency to conduct such a study. <ul style="list-style-type: none"> • Amends the definition of "case review system" to: <ul style="list-style-type: none"> o increase the required frequency of state caseworker visits to a child who is placed in foster care outside the state in which the child's parents reside; o require a child's health and education record to be supplied to the child at no cost when he/she leaves foster care by reason of having attained the age of majority under state law; and o provide for a foster parent's right (currently, opportunity) to be heard in any proceeding (currently, review or hearing) respecting their foster child. <p>35.24 Safe and Timely Interstate Placement of Foster Children Act of 2006 (continued)</p> <ul style="list-style-type: none"> • Requires state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care are notified of any such proceedings. • Includes among the purposes of grants to the highest state courts the assessment of the court's role in carrying out state laws requiring proceedings that determine the best strategy to use to expedite the interstate placement of children. • Provides for consideration of out-of-state placements in permanency hearings, case plans, and case reviews. • Requires each plan for child welfare services to include the assurance that the state will eliminate legal barriers to facilitate timely adoptive or permanent placements for children. <p>D. LEGISLATIVE HISTORY Summary: http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR05403:@@D&summ2=m& TOM:/bss/d109query.html</p>	<p>P.L. 109-239</p>
35.25	<p>STRENGTHENING ABUSE AND NEGLECT COURTS ACT OF 2000</p> <p>A. REASONS BILL INITIATED</p> <ul style="list-style-type: none"> • Desire to improve effectiveness of court practice related to child abuse and neglect proceedings. <p>B. OBJECTIVES/GOALS</p>	<p>P.L. 106-314</p>

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<ul style="list-style-type: none"> • To improve the administrative efficiency and effectiveness of the nation's abuse and neglect courts and for other purposes consistent with the Adoption and Safe Families Act of 1997. <p>C. SERVICES PROVIDED/MEASURES TAKEN</p> <ul style="list-style-type: none"> • Directs the Attorney General to award grants to State and local courts to: <ul style="list-style-type: none"> ○ enable courts to develop and implement automated data collection and case-tracking systems for proceedings conducted by, or under the supervision of, an abuse and neglect court; ○ encourage the replication of such systems in abuse and neglect courts in other jurisdictions; and <p>35.25 Strengthening Abuse and Neglect Courts Act of 2000 (continued)</p> <ul style="list-style-type: none"> ○ require the use of such systems to evaluate a court's performance in complying with requirements of part B (child and family services) and part E (Federal payments for foster care and adoption assistance) of title IV of the Social Security Act. • Directs the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to make a grant to the National Court-Appointed Special Advocate Association for purposes of: <ul style="list-style-type: none"> ○ expanding the recruitment, and building the capacity, of court-appointed special advocate programs located in the 15 largest urban areas; ○ developing regional, multi- jurisdictional court-appointed special advocate programs serving rural areas; and ○ providing training and supervision of volunteers in court-appointed special advocate programs. • Sets forth provisions regarding limits on administrative expenditures and determination of urban and rural areas. Authorizes appropriations. <p>D. LEGISLATIVE HISTORY</p> <p>TEXT: http://www.childwelfare.gov/systemwide/laws_policies/federal/pl106_314.cfm</p>	<p>P.L. 106-314</p>

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