

<h1 style="margin: 0;">ACF</h1> <p style="margin: 0;">Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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INFORMATION MEMORANDUM

TO: The State Office, Agency or Organization Designated by the Governor to Apply for a Child Abuse and Neglect State Grant

SUBJECT: Modifications to the CAPTA State Grant Program by the Keeping Children and Families Safe Act of 2003 (Public Law 108-36)

LEGAL AND RELATED REFERENCES:

Section 106 of the Child Abuse Prevention and Treatment Act, as amended by Public Law 108-36, enacted June 25, 2003 (42 U.S.C. 5106)

PURPOSE: To provide information to States on the changes in the CAPTA State Grant Program with the enactment of the Keeping Children and Families Safe Act of 2003 (Public Law 108-36).

INFORMATION:

The President signed the Keeping Children and Families Safe Act of 2003, Public Law 108-36 into law on June 25, 2003. In part, the law reauthorizes and amends the Child Abuse Prevention and Treatment Act through FY 2008.¹ Some of the major changes to the CAPTA State Grant are listed below (please refer to the attached law for the complete amendments).

¹ The law amends other provisions of CAPTA including the authority for the National Clearinghouse on Child Abuse and Neglect, research and technical assistance, grants for demonstration programs and projects, Children's Justice Act grants, and Community-Based Grants for the Prevention of Child Abuse and Neglect (formerly known as the Community-Based Family Resource and Support Grants). The law also amends the Adoption Opportunities and Abandoned Infants Assistance programs.

Purposes of the State Grants

The amendments revise, redesignate and add several purposes for the CAPTA State Grant, as follows:

- Improving the intake, assessment, screening, and investigation of reports of abuse and neglect (section 106(a)(1), the law made no change or redesignation);
- Creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and improving legal preparation and representation, including—(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and (ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings (section 106(a)(2), the law made no change or redesignation);
- Improving the case management, *including ongoing case monitoring*², and delivery of services and treatment provided to children and their families (section 106(a)(3));
- Enhancing the general child protective system by *developing, improving, and implementing risk and safety assessment tools and protocols* (section 106(a)(4));
- Developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange (section 106(a)(5), new purpose);
- Developing, strengthening, and facilitating training *including—(A) training regarding research-based strategies to promote collaboration with the families; (B) training regarding the legal duties of such individuals; and (C) personal safety training for caseworkers* (section 106(a)(6));
- Improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers (section 106(a)(7), new purpose)
- Developing and facilitating training protocols for individuals mandated to report child abuse or neglect (section 106(a)(8), redesignated only);
- Developing and facilitating research-based training for individuals mandated to report child abuse or neglect (section 106(a)(9), new purpose³);

² Text in italics represents changes to an existing provision.

³ There are two purposes related to training mandated reporters as a result of the reauthorization. This appears to be a drafting error.

- Developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—
 - (A) existing social and health services,
 - (B) financial assistance, and
 - (C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption (section 106(a)(10), new purpose);
- Developing and delivering information to educate the public on the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect (section 106(a)(11), new purpose);
- Developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level (section 106(a)(12), redesignated only);
- Supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems (section 106(a)(13), new purpose); and
- Supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports (section 106(a)(14), new purpose).

The purpose in former section 106(a)(7), to develop, strengthen and support child abuse and neglect prevention, treatment and research programs in the public and private sectors has been deleted. These activities are still an allowable use of CAPTA State grant funds.

Eligibility Requirements

Public Law 108-36 also amends the eligibility requirements for the CAPTA State grant.⁴ Under the new requirements, States must provide the Secretary with notice of any significant changes in how the State is using CAPTA State grant funds which differ from those described in the State's current CAPTA State plan (section 106(b)(1)(B)(ii)).

In addition, States will have to assure through a certification that the State is operating a statewide program relating to child abuse and neglect, or has in effect a State law that includes the following new or revised provisions:

⁴ We will issue a separate Program Instruction informing States of any modifications that may be necessary to a State's Child and Family Services Plan and/or Annual Progress and Services Report for FY 2003 or future years as a result of the change in CAPTA State grant requirements.

- policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to— (I) establish a definition under Federal law of what constitutes child abuse; or (II) require prosecution for any illegal action (section 106(b)(2)(A)(ii));
- the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms (section 106(b)(2)(A)(iii));
- procedures for the immediate screening, *risk and safety* assessment, and prompt investigation of such reports (section 106(b)(2)(A)(iv));
- triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service (section 106(b)(2)(A)(v));
- provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibility under law to protect children from abuse and neglect (section 106(b)(2)(A)(ix));
- provisions and procedures for the appointment of a guardian ad litem *who has received training appropriate to the role*, to represent an abused or neglected child in a judicial proceeding (section 106(b)(2)(A)(xv));
- provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the reporter (section 106(b)(2)(A)(xviii));
- provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment (section 106(b)(2)(A)(xix));
- provisions and procedures for improving the training, retention and supervision of caseworkers (section 106(b)(2)(A)(xx));
- provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under part C of the Individuals with Disabilities Education Act (section 106(b)(2)(A)(xxi)), and;

- not later than June 25, 2005 (2 years after the enactment of Public Law 108-36), provisions and procedures for requiring criminal background checks for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household (section 106(b)(2)(A)(xxii)).

The law also provides a State with the flexibility to allow public access to court proceedings that determine child abuse and neglect, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and families.

In addition, the law deletes provisions that previously allowed States two years from the date of the 1996 CAPTA amendments to implement certain provisions.

Citizen Review Panel Requirements

The amendments revised the citizen review panel requirements by:

- requiring each citizen review panel to examine the *practices* (in addition to policies and procedures) of State and local agencies to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities (section 106(c)(4)(A));
- requiring each panel to provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community (section 106(c)(4)(C)); and
- requiring each panel to make recommendations to the State and public on improving the child protection services system at the State and local levels. The appropriate State agency is to respond to the panel and State and local child protective services agencies in writing no later than six months after the panel recommendations are submitted. The State agency's response must include a description of whether or how the State will incorporate the recommendations of the panel (where appropriate) to make measurable progress in improving the State and local CPS systems (section 106(c)(6)).

Annual Reports

The amendments require States to submit a variety of new reports to HHS on an annual basis:

- States are required to submit to HHS the annual report that summarizes the activities of the citizen review panels⁵ (section 106(d)(13));
- Each State must work with the Secretary to provide, to the maximum extent practicable, a data report that includes the number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system (section 106(d)(14)); and

⁵ While ACF has always required States to submit the citizen review panel reports as a part of the Annual Progress and Services Report process (see ACYF-CB-PI-03-05), this requirement is now statutory.

- States must submit an annual report to the Secretary describing how the CAPTA State grant funds, either alone or in combination with other Federal funds, were spent to achieve the purposes and objectives of the CAPTA State grant (section 108(e)).

EFFECTIVE DATE: The law is effective upon enactment, June 25, 2003.

INQUIRIES TO: Regional Administrators, ACF Regions I-X

/s/
Joan E. Ohl
Commissioner
Administration on Children, Youth
and Families

Attachment: Public Law 108-36, The Keeping Children and Families Safe Act of 2003