

sions authorizing appropriations for fiscal year ending June 30, 1974, through fiscal year ending Sept. 30, 1981.

1979—Pub. L. 96-143 inserted “September 30, 1979, September 30, 1980, and September 30, 1981,” after “September 30, 1978.”

1976—Pub. L. 94-293 inserted “September 30, 1977, and September 30, 1978,” after “June 30, 1976.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 392 of Pub. L. 103-82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99-551, set out as an Effective Date note under section 4950 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 3142.

§ 5085. Availability of appropriations

Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this chapter or any predecessor authority shall remain available, in accordance with the provisions of this chapter, for obligation and expenditure until expended.

(Pub. L. 93-113, title V, §505, Oct. 1, 1973, 87 Stat. 416.)

SUBCHAPTER VI—YOUTHBUILD PROJECTS

§§ 5091 to 5091n. Repealed. Pub. L. 103-82, title III, § 385, Sept. 21, 1993, 107 Stat. 915

Section 5091, Pub. L. 93-113, title VII, §701, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3172, set forth purpose of this subchapter.

Section 5091a, Pub. L. 93-113, title VII, §702, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3173, authorized Federal grants for Youthbuild projects.

Section 5091b, Pub. L. 93-113, title VII, §703, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3173, related to service in construction and rehabilitation projects.

Section 5091c, Pub. L. 93-113, title VII, §704, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3174, related to education and job training services.

Section 5091d, Pub. L. 93-113, title VII, §705, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3174, set forth permitted uses of funds provided under this subchapter.

Section 5091e, Pub. L. 93-113, title VII, §706, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3175, set forth eligibility requirements for participants.

Section 5091f, Pub. L. 93-113, title VII, §707, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3175, provided living allowance for full-time program participants.

Section 5091g, Pub. L. 93-113, title VII, §708, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, directed that services and activities be carried out through arrangements or under contracts with certain entities.

Section 5091h, Pub. L. 93-113, title VII, §709, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, directed prescribing of standards for evaluating performance of projects.

Section 5091i, Pub. L. 93-113, title VII, §710, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, related to applications for grants.

Section 5091j, Pub. L. 93-113, title VII, §711, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3177, set forth criteria for selection of projects.

Section 5091k, Pub. L. 93-113, title VII, §712, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3177, authorized management and technical assistance for projects.

Section 5091l, Pub. L. 93-113, title VII, §713, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3178, defined terms for purposes of this subchapter.

Section 5091m, Pub. L. 93-113, title VII, §715, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3179; amended Pub. L. 102-10, §10, Mar. 12, 1991, 105 Stat. 32, directed issuance of necessary regulations.

Section 5091n, Pub. L. 93-113, title VII, §716, as added Pub. L. 101-610, title II, §211, Nov. 16, 1990, 104 Stat. 3179, authorized appropriations to carry out this subchapter.

EFFECTIVE DATE OF REPEAL

Subchapter repealed effective Oct. 1, 1993, see section 392 of Pub. L. 103-82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

CHAPTER 67—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM

SUBCHAPTER I—GENERAL PROGRAM

- Sec. 5101. National Center on Child Abuse and Neglect.
 - (a) Establishment.
 - (b) Appointment of Director.
 - (c) Other staff and resources.
- 5102. Advisory Board on Child Abuse and Neglect.
 - (a) Appointment.
 - (b) Solicitation of nominations.
 - (c) Composition of board.
 - (d) Election of officers.
 - (e) Meetings.
 - (f) Duties.
 - (g) Compensation.
 - (h) Authorization of appropriations.
- 5103. Inter-Agency Task Force on Child Abuse and Neglect.
 - (a) Establishment.
 - (b) Composition.
 - (c) Chairperson.
 - (d) Duties.
 - (e) Meetings.
 - (f) Reports.
- 5104. National clearinghouse for information relating to child abuse.
 - (a) Establishment.
 - (b) Functions.
 - (c) Coordination with available resources.
- 5105. Research and assistance activities of the National Center on Child Abuse and Neglect.
 - (a) Research.
 - (b) Publication and dissemination of information.
 - (c) Provision of technical assistance.
 - (d) Authority to make grants or enter into contracts.
 - (e) Peer review for grants.
- 5106. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
 - (a) General authority.
 - (b) Grants for resource centers.
 - (c) Discretionary grants.
- 5106a. Grants to States for child abuse and neglect prevention and treatment programs.
 - (a) Development and operation grants.
 - (b) Eligibility requirements.
 - (c) State program plan.
 - (d) Waivers.
 - (e) Reduction of funds in case of failure to obligate.
 - (f) Restrictions relating to child welfare services.
 - (g) Compliance and education grants.
- 5106a-1. Repealed.

- Sec.
5106b. Technical assistance to States for child abuse prevention and treatment programs.
 (a) Training and technical assistance.
 (b) Limitation on funding.
- 5106c. Grants to States for programs relating to investigation and prosecution of child abuse and neglect cases.
 (a) Grants to States.
 (b) Eligibility requirements.
 (c) State task forces.
 (d) State task force study.
 (e) Adoption of State task force recommendations.
 (f) Funds available.
- 5106d. Miscellaneous requirements relating to assistance.
 (a) Construction of facilities.
 (b) Geographical distribution.
 (c) Prevention activities.
 (d) Limitation.
- 5106e. Coordination of child abuse and neglect programs.
- 5106f. Reports.
 (a) Coordination efforts.
 (b) Effectiveness of State programs and technical assistance.
- 5106f-1. Report concerning voluntary reporting system.
- 5106g. Definitions.
- 5106h. Authorization of appropriations.
 (a) In general.
 (b) Availability of funds without fiscal year limitation.
5107. Discretionary programs; authorization of appropriations.

SUBCHAPTER II—ADOPTION OPPORTUNITIES

5111. Congressional findings and declaration of purpose.
 (a) Findings.
 (b) Purpose.
5112. Repealed.
5113. Information and service functions by appropriate administrative arrangement.
 (a) Establishment in Department of Health and Human Services.
 (b) Implementation authorities.
 (c) Post legal adoption services.
 (d) Placement of foster care children.
5114. Study and report of unlicensed or unregulated adoption placements.
5115. Authorization of appropriations.
- 5115a. Multiethnic placements.
 (a) Activities.
 (b) Equitable relief.
 (c) Federal guidance.
 (d) Deadline for compliance.
 (e) Noncompliance deemed civil rights violation.
 (f) No effect on Indian Child Welfare Act of 1978.

SUBCHAPTER III—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

5116. Community-based family resource programs.
 (a) Purpose.
 (b) Authority.
 (c) Eligibility for grants.
 (d) Amount of grant.
 (e) Existing grants.
 (f) Application.
 (g) Local program requirements.
 (h) Definitions.
 (i) Authorization of appropriations.

SUBCHAPTER IV—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES

5117. Congressional findings.

- Sec.
5117a. Temporary child care for children with disabilities and chronically ill children.
- 5117b. Crisis nurseries.
- 5117c. Administrative provisions.
 (a) Applications.
 (b) Award of grants.
 (c) Evaluations.
 (d) Definitions.
- 5117d. Authorization of appropriations.
- SUBCHAPTER V—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS
5118. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
 (a) Establishment of program.
 (b) Minimum qualifications of grantees.
 (c) Requirement of matching funds.
- 5118a. Provisions with respect to carrying out purpose of demonstration grants.
 (a) Joint training of appropriate service personnel.
 (b) Additional authorized activities.
- 5118b. Additional required agreements.
 (a) Reports to Secretary.
 (b) Evaluation by Secretary.
 (c) Report to Congress.
 (d) Restriction on use of grant.
- 5118c. Description of intended uses of grant.
- 5118d. Requirement of submission of application.
- 5118e. Authorization of appropriations.
 (a) In general.
 (b) Availability of appropriations.

SUBCHAPTER VI—CHILD ABUSE CRIME INFORMATION AND BACKGROUND CHECKS

5119. Reporting child abuse crime information.
 (a) In general.
 (b) Provision of State child abuse crime records through national criminal history background check system.
 (c) Liaison.
 (d) Annual summary.
 (e) Annual report.
 (f) Study of child abuse offenders.
- 5119a. Background checks.
 (a) In general.
 (b) Guidelines.
 (c) Regulations.
 (d) Liability.
 (e) Fees.
- 5119b. Funding for improvement of child abuse crime information.
 (a) Omitted.
 (b) Additional funding grants for improvement of child abuse crime information.
 (c) Withholding State funds.
- 5119c. Definitions.

SUBCHAPTER I—GENERAL PROGRAM

CODIFICATION

This subchapter is comprised of title I of the Child Abuse Prevention and Treatment Act, Pub. L. 93-247. Titles II and III of that Act are classified to subchapters III (§5116 et seq.) and V (§5118 et seq.) of this chapter.

§ 5101. National Center on Child Abuse and Neglect

(a) Establishment

The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

(b) Appointment of Director**(1) Appointment**

The Secretary shall appoint a Director of the Center. Except as otherwise provided in this subchapter and subchapters III and V of this chapter, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this subchapter and subchapters III and V of this chapter. The Director shall have experience in the field of child abuse and neglect.

(2) Compensation

The Director shall be compensated at the annual rate provided for a level GS-15 employee under section 5332 of title 5.

(c) Other staff and resources

The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this subchapter and subchapters III and V of this chapter. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

(Pub. L. 93-247, title I, §101, formerly §2, Jan. 31, 1974, 88 Stat. 5; Pub. L. 93-644, §8(d)(1), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95-266, title I, §101, Apr. 24, 1978, 92 Stat. 205; Pub. L. 98-457, title I, §101, Oct. 9, 1984, 98 Stat. 1749; Pub. L. 99-401, title I, §103(a), Aug. 27, 1986, 100 Stat. 906; Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 103; renumbered title I, §101, Pub. L. 101-126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764.)

AMENDMENTS

1988—Pub. L. 100-294 amended section generally, substituting provisions relating to establishment, appointment of Director, and other staff and resources of National Center on Child Abuse and Neglect for provisions relating to establishment, functions, grant and contract authority, staff and resource availability, and use of funds of National Center on Child Abuse and Neglect. See sections 5105 to 5106d of this title.

1986—Subsec. (b)(2). Pub. L. 99-401, §103(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3), (4). Pub. L. 99-401, §103(a)(1), redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (6).

Subsec. (b)(5). Pub. L. 99-401, §103(a)(3), added par. (5). Former par. (5) redesignated (7).

Subsec. (b)(6). Pub. L. 99-401, §103(a)(1), redesignated former par. (4) as (6). Former par. (6) redesignated (8).

Subsec. (b)(7). Pub. L. 99-401, §103(a)(1), (4), redesignated former par. (5) as (7) and amended it generally, substituting “conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial procedures in cases of child abuse” for “conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof”. Former par. (7) redesignated (9).

Subsec. (b)(8), (9). Pub. L. 99-401, §103(a)(1), redesignated former pars. (6) and (7) as (8) and (9), respectively.

Subsec. (b)(10). Pub. L. 99-401, §103(a)(5), added par. (10).

1984—Subsec. (a). Pub. L. 98-457, §101(a), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (b)(6). Pub. L. 98-457, §101(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity; and”.

Subsec. (b)(7). Pub. L. 98-457, §101(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 5105 of this title), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after April 24, 1978.”

Subsec. (c). Pub. L. 98-457, §101(c), substituted “The functions of the Secretary under subsection (b) of this section may be carried out” for “The Secretary may carry out his functions under subsection (b) of this section”.

Subsec. (e). Pub. L. 98-457, §101(d), added subsec. (e). 1978—Subsec. (b). Pub. L. 95-266, §101(1), in pars. (1) and (3) inserted requirement of dissemination of annual summary and training materials, respectively, and added par. (7).

Subsec. (c). Pub. L. 95-266, §101(2), inserted provisions relating to duration and review of grants under subsec. (b)(5) of this section.

Subsec. (d). Pub. L. 95-266, §101(3), added subsec. (d). 1975—Subsec. (c). Pub. L. 93-644 added subsec. (c).

SHORT TITLE OF 1994 AMENDMENT

For short title of subpart 1 of part E of title V of Pub. L. 103-381, which enacted section 5115a of this title, as the “Howard M. Metzenbaum Multiethnic Placement Act of 1994”, see section 551 of Pub. L. 103-382, set out as a Short Title note under section 5115a of this title.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-209, §1, Dec. 20, 1993, 107 Stat. 2490, provided that: “This Act [enacting sections 5119 to 5119c of this title and amending section 3759 of this title] may be cited as the ‘National Child Protection Act of 1993.’”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-295, §1(a), May 28, 1992, 106 Stat. 187, provided that: “This Act [enacting sections 5106f-1, 10414, and 10415 of this title, amending sections 5102, 5105, 5106, 5106a, 5106a-1, 5106c, 5106h, 5111, 5113, 5115, 5116, 5116b to 5116d, 5117c, 5117d, 5118e, 10401 to 10405, 10407 to 10410, 10412, and 10413 of this title, repealing section 5112 of this title, and enacting provisions set out as notes under this section and sections 5106a, 5106h, 5117, 10401, and 10402 of this title] may be cited as the ‘Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992.’”

SHORT TITLE OF 1989 AMENDMENT

Section 1 of Pub. L. 101-126 provided that: “This Act [amending this section and sections 5102 to 5106h and 5116 to 5116g of this title and enacting provisions set out as notes under section 5102 and 5116b of this title] may be cited as the ‘Child Abuse Prevention Challenge Grants Reauthorization Act of 1989.’”

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100-294 provided that: “This Act [enacting sections 5106a to 5106h and 10413 of this title, amending this section and sections 5102 to 5106, 5113, 5115, 10402, 10409, and 10410 of this title, repealing section 10411 of this title, and enacting provisions set out as notes under this section and section 5105 of this title] may be referred to as the ‘Child Abuse Prevention, Adoption, and Family Services Act of 1988.’”

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99-401 provided that: “This Act [enacting subchapter IV of this chapter and section

10603a of this title, amending this section and sections 290dd-3, 290ee-3, 5103, 5105, 10601, and 10603 of this title, and enacting provisions set out as notes under this section and section 5117 of this title] may be cited as the 'Children's Justice and Assistance Act of 1986'."

Section 101 of title I of Pub. L. 99-401 provided that: "This title [enacting section 10603a of this title, amending this section and sections 290dd-3, 290ee-3, 5103, 5105, 10601, and 10603 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Children's Justice Act'."

For short title of title II of Pub. L. 99-401, which enacted subchapter IV of this chapter, as the "Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986", see section 201 of Pub. L. 99-401, set out as a Short Title note under section 5117 of this title.

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98-457 provided: "That this Act [enacting chapter 110 of this title, amending this section and sections 5102 to 5106, 5111 to 5113, and 5115 of this title, and enacting provisions set out as notes under this section and sections 5102, 5103, and 10401 of this title] may be cited as the 'Child Abuse Amendments of 1984'."

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-266 provided: "That this Act [enacting subchapter II of this chapter and amending this section and sections 5102 to 5105 of this title] may be cited as the 'Child Abuse Prevention and Treatment and Adoption Reform Act of 1978'."

SHORT TITLE

Section 1(a), formerly § 1, of Pub. L. 93-247, as renumbered § 1(a) and amended by Pub. L. 100-294, title I, § 101, Apr. 25, 1988, 102 Stat. 102, provided that: "This Act [enacting this subchapter and subchapters III and V of this chapter] may be cited as the 'Child Abuse Prevention and Treatment Act'."

REGULATIONS

Section 401(a) of Pub. L. 100-294 provided that: "For any rule or regulation needed to implement this Act [see Short Title of 1988 Amendment note above], the Secretary of Health and Human Services shall—

- "(1) publish proposed regulations for purposes of implementing the amendments made by this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act [Apr. 25, 1988];
- "(2) allow not less than 45 days for public comment on such proposed regulations; and
- "(3) publish final regulations for purposes of implementing the amendments made by this Act before the end of the 195-day period beginning on the date of the enactment of this Act."

PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS

Section 106 of Pub. L. 100-294 established a National Commission on Child and Youth Deaths to study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and to prepare and transmit to President and appropriate committees of Congress a report within 12 months after appointment of the Commission, and provided that the Commission terminates 90 days after transmitting the report.

DISSEMINATION OF INFORMATION AND MATERIALS ON CHILD ABUSE

Section 103(b) of Pub. L. 99-401 required information and materials under subsec. (b)(2), (5) of this section to be made available to appropriate State officials not later than 180 days after Aug. 27, 1986.

ACQUISITION OF STATISTICAL DATA

Section 105 of Pub. L. 99-401 provided that:

"(a) DATA ACQUISITION FOR 1987 AND 1988.—The Attorney General shall acquire from criminal justice agencies statistical data, for the calendar years 1987 and 1988, about the incidence of child abuse, including child sexual abuse, and shall publish annually a summary of such data.

"(b) MODIFICATION OF UNIFORM CRIME REPORTING PROGRAM.—(1) As soon as practicable, but in no case later than January 1, 1989, the Attorney General shall modify the uniform crime reporting program in the Federal Bureau of Investigation to include data on the age of the victim of the offense and the relationship, if any, of the victim to the offender, for types of offenses that may involve child abuse, including child sexual abuse.

"(2) The modification, once made, shall remain in effect until the later of—

"(A) 10 years after the date it is made; or

"(B) such ending date as may be set by the Attorney General."

CONSTRUCTION OF CHILD ABUSE AMENDMENTS OF 1984 WITH OTHER LAWS; SEPARABILITY

Section 127 of Pub. L. 98-457 provided that:

"(a) No provision of this Act or any amendment made by this Act [See Short Title of 1984 Amendment note above] is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794].

"(b) No provision of this Act or any amendment made by this Act may be so construed as to authorize the Secretary or any other governmental entity to establish standards prescribing specific medical treatments for specific conditions, except to the extent that such standards are authorized by other laws.

"(c) If the provisions of any part of this Act or any amendment made by this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 93-247, as added by Pub. L. 102-295, title I, § 102(a), May 28, 1992, 106 Stat. 188, provided that: "Congress finds that—

"(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;

"(2) many of these children and their families fail to receive adequate protection or treatment;

"(3) the problem of child abuse and neglect requires a comprehensive approach that—

"(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

"(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

"(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;

"(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

"(E) is sensitive to ethnic and cultural diversity;

"(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;

"(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

"(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the allevi-

ation of its consequences are matters of the highest national priority;

“(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

“(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

“(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

“(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

“(11) the Federal government should provide leadership and assist communities in their child protection efforts by—

“(A) promoting coordinated planning among all levels of government;

“(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

“(C) strengthening the capacity of States to assist communities;

“(D) allocating sufficient financial resources to assist States in implementing community plans;

“(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

“(F) providing leadership to end the abuse and neglect of the nation’s children and youth.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5106g, 5107 of this title.

§ 5102. Advisory Board on Child Abuse and Neglect

(a) Appointment

The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

(b) Solicitation of nominations

The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a) of this section.

(c) Composition of board

(1) Number of members

The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

(A) 2 shall be members of the task force established under section 5103 of this title; and

(B) 13 shall be members of the general public and may not be Federal employees.

(2) Representation

The Secretary shall appoint members from the general public under paragraph (1)(B) who

are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

(A) law (including the judiciary);

(B) psychology (including child development);

(C) social services (including child protective services);

(D) medicine (including pediatrics);

(E) State and local government;

(F) organizations providing services to disabled persons;

(G) organizations providing services to adolescents;

(H) teachers;

(I) parent self-help organizations;

(J) parents’ groups; and

(K) voluntary groups.

(3) Terms of office

(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

(B) Of the members of the board from the general public first appointed under subsection (a) of this section—

(i) 4 shall be appointed for terms of office of 2 years;

(ii) 4 shall be appointed for terms of office of 3 years; and

(iii) 5 shall be appointed for terms of office of 4 years,

as determined by the members from the general public during the first meeting of the board.

(C) No member of the board appointed under subsection (a) of this section shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member’s successor is appointed.

(4) Vacancies

Any member of the board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member’s predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a) of this section, a replacement shall be appointed in the same manner in which the original appointment was made.

(5) Removal

No member of the board may be removed during the term of office of such member except for just and sufficient cause.

(d) Election of officers

The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

(e) Meetings

The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with re-

ceipt of reports from the task force under section 5103(f) of this title.

(f) Duties

The board shall—

(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

(B) recommendations as to carrying out the purposes of this subchapter and subchapters III and V of this chapter;

(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

(A) programs;

(B) research;

(C) grant and contract needs;

(D) areas of unmet needs; and

(E) areas to which the Secretary should provide grant and contract priorities under sections 5105 and 5106 of this title;

(3) annually review the budget of the Center and submit to the Director a report concerning such review; and

(4) not later than 24 months after May 28, 1992, submit to the Secretary and the appropriate committees of the Congress a report containing the recommendations of the Board with respect to—

(A) a national policy designed to reduce and ultimately to prevent child and youth maltreatment-related deaths, detailing appropriate roles and responsibilities for State and local governments and the private sector;

(B) specific changes needed in Federal laws and programs to achieve an effective Federal role in the implementation of the policy specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth maltreatment-related deaths.

(g) Compensation

(1) In general

Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, including travel-time.

(2) Travel

Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(3) Restriction

The Director may not compensate a member of the board under this section if the member

is receiving compensation or travel expenses from another source while serving on business of the board.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section, \$1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(Pub. L. 93-247, title I, §102, formerly §3, Jan. 31, 1974, 88 Stat. 5; Pub. L. 95-266, title I, §102, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98-457, title I, §§102, 121, Oct. 9, 1984, 98 Stat. 1750, 1752; Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 103; renumbered title I, §102, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(1), Oct. 25, 1989, 103 Stat. 764; Pub. L. 102-295, title I, §111, May 28, 1992, 106 Stat. 190.)

CODIFICATION

May 28, 1992, referred to in subsec. (f)(4), was in the original “the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992”, which was translated as meaning the date of enactment of Pub. L. 102-295, known as the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992, which enacted subsec. (f)(4), to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (f)(4). Pub. L. 102-295, §111(a), added par. (4).

Subsec. (h). Pub. L. 102-295, §111(b), added subsec. (h). 1989—Subsecs. (c)(1)(A), (e), (f)(2)(E). Pub. L. 101-126, §3(b)(1), made technical amendments to references to sections 5103, 5105, and 5106 of this title to reflect renumbering of corresponding sections of original act.

1988—Pub. L. 100-294 amended section generally, substituting provisions relating to Advisory Board on Child Abuse and Neglect for provisions relating to definitions. See section 5106g of this title.

1984—Cl. (1). Pub. L. 98-457, §121(1), designated provisions after opening phrase as cl. (1).

Pub. L. 98-457, §102(1), inserted “(including any employee of a residential facility or any staff person providing out-of-home care)”.

Cl. (2). Pub. L. 98-457, §102(2), (3), added cl. (2).

Cl. (3). Pub. L. 98-457, §121(2), (3), added cl. (3).

1978—Pub. L. 95-266 inserted “or exploitation” after “sexual abuse” and “, or the age specified by the child protection law of the State in question,” after “eighteen”.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8 of Pub. L. 101-126 provided that: “This Act and the amendments made by this Act [see Short Title of 1989 Amendment note set out under section 5101 of this title] shall take effect October 1, 1989, or upon the date of the enactment of this Act [Oct. 25, 1989], whichever occurs later.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 128 of Pub. L. 98-457 provided that:

“(a) Except as provided in subsection (b), the provisions of this part or any amendment made by this part [part B (§§121-128) of title I of Pub. L. 98-457, amending this section and section 5103 of this title and enacting provisions set out as notes under sections 5101 and 5103 of this title] shall be effective on the date of the enactment of this Act [Oct. 9, 1984].

“(b)(1) Except as provided in paragraph (2), the amendments made by sections 122 and 123(b) of this Act [amending section 5103 of this title] shall become effective one year after the date of such enactment [Oct. 9, 1984].

“(2) In the event that, prior to such effective date, funds have not been appropriated pursuant to section 5 of the Act (as amended by section 104 of this Act) [section 5104 of this title] for the purpose of grants under section 4(c)(1) of the Act (as added by section 123(a) of this Act) [section 5103(c)(1) of this title], any State which has not met any requirement of section 4(b)(2)(K) of the Act (as added by section 122(3) of this Act) may be granted a waiver of such requirements for a period of not more than one year, if the Secretary finds that such State is making a good-faith effort to comply with such requirements.”

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of its establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the end of such period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5106g of this title.

§ 5103. Inter-Agency Task Force on Child Abuse and Neglect

(a) Establishment

The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

(b) Composition

The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

(c) Chairperson

The task force shall be chaired by the Director.

(d) Duties

The task force shall—

(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

(3) coordinate the use of grants received under this subchapter and subchapters III and V of this chapter with the use of grants received under other programs;

(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after April 25, 1988; and

(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this subchapter and subchapters III and V of this chapter, and prevent duplication with respect to the allocation of resources to adoption activities.

(e) Meetings

The task force shall meet not less than three times annually at the call of the chairperson.

(f) Reports

The task force shall report not less than twice annually to the Center and the Board.

(Pub. L. 93-247, title I, § 103, formerly § 4, Jan. 31, 1974, 88 Stat. 5; Pub. L. 93-644, § 8(d)(2), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95-266, title I, § 103, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98-457, title I, §§ 103, 122, 123, Oct. 9, 1984, 98 Stat. 1750, 1752, 1753; Pub. L. 99-401, title I, § 102(a), Aug. 27, 1986, 100 Stat. 903; Pub. L. 100-117, § 1, Sept. 28, 1987, 101 Stat. 751; Pub. L. 100-294, title I, § 101, Apr. 25, 1988, 102 Stat. 105; renumbered title I, § 103, Pub. L. 101-126, § 3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764.)

AMENDMENTS

1988—Pub. L. 100-294 amended section generally, substituting provisions relating to Inter-Agency Task Force on Child Abuse and Neglect for provisions relating to demonstration programs and projects. See sections 5106 to 5106d of this title.

1987—Subsec. (b)(3)(A)(i). Pub. L. 100-117 inserted “and for a third one-year period if the Secretary makes an additional finding that such State is making substantial progress to achieve such compliance,” before “or” at end.

1986—Subsecs. (d) to (f). Pub. L. 99-401, § 102(a), added subsec. (d) and redesignated subsecs. (d) and (e) as (e) and (f), respectively. Former subsec. (f) relating to availability of assistance for prevention of child abuse and neglect redesignated (h), and subsec. (f) defining “State” redesignated (h).

Subsec. (g). Pub. L. 99-401, § 102(a)(1), redesignated subsec. (f) relating to availability of assistance for prevention of child abuse and neglect as (g).

Subsec. (h). Pub. L. 99-401, § 102(a)(1), redesignated subsec. (f) defining “State” as (h).

1984—Subsec. (b)(2)(E). Pub. L. 98-457, § 103(a), substituted “and the child’s parents” for “his parents”.

Subsec. (b)(2)(K). Pub. L. 98-457, § 122, added subpar. (K).

Subsec. (b)(3). Pub. L. 98-457, § 103(b), substituted provisions relating to waiver of certain requirements for provisions which had required that programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act comply with the requirements of subsec. (b)(2)(B), (C), (E), and (F) of this section.

Subsec. (b)(4). Pub. L. 98-457, § 123(b), which directed the amendment of this section by inserting a new par. (4) after par. (3), was executed by inserting par. (4) in subsec. (b) as the probable intent of Congress.

Subsec. (c). Pub. L. 98-457, § 123(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 98-457, § 123(a)(1), redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 98-457, § 123(a)(1), redesignated former subsec. (d) as (e). Former subsec. (e), relating to availability of assistance, redesignated (f).

Pub. L. 98-457, § 103(c)(2), added subsec. (e). Former subsec. (e), relating to definition, redesignated (f).

Subsec. (f). Pub. L. 98-457, § 123(a)(1), redesignated subsec. (e), relating to availability of assistance, as (f).

Pub. L. 98-457, § 103(c)(1), redesignated subsec. (e), defining “State”, as (f).

1978—Subsec. (a). Pub. L. 95-266, §103(1), in introductory text inserted “or service” after “demonstration”, in cl. (1) struck out “the development and establishment of” before “training programs for professionals”, and struck out text following cl. (4) which related to use of appropriated funds for carrying out provisions.

Subsec. (b)(1). Pub. L. 95-266, §103(2)(A), substituted provisions authorizing the Secretary to make grants through the Center, for provision setting forth minimum and maximum amounts for grants in any fiscal year, and struck out “for the payment of reasonable and necessary expenses” after “to the States”.

Subsec. (b)(2). Pub. L. 95-266, §103(2)(B), inserted provision following cl. (J) relating to failure of a State to obligate awarded funds.

1975—Subsec. (e). Pub. L. 93-644 added subsec. (e).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 123(a) of Pub. L. 98-457 effective Oct. 9, 1984, and amendment by sections 122 and 123(b) of Pub. L. 98-457 effective one year after Oct. 9, 1984, with enumerated exceptions, see section 128 of Pub. L. 98-457, set out as a note under section 5102 of this title.

PROCEDURES AND PROGRAMS FOR RESPONDING TO REPORTS OF MEDICAL NEGLECT

Section 124 of Pub. L. 98-457 required the Secretary of Health and Human Services to publish, not later than 60 days after Oct. 9, 1984, proposed regulations to implement the requirements of former subsection (b)(2)(K) of this section and, not later than 180 days after Oct. 9, 1984, and after completion of a process of not less than 60 days for notice and opportunity for public comment, the final regulations under this subsection. The Secretary was also required to publish, not later than 60 days after Oct. 9, 1984, interim model guidelines to encourage the establishment within health-care facilities of committees which would serve the purposes of educating hospital personnel and families of disabled infants with life-threatening conditions, recommending institutional policies and guidelines concerning the withholding of medically indicated treatment (as that term is defined in section 5102(3) of this title) from such infants, and offering counsel and review in cases involving disabled infants with life-threatening conditions and, not later than 180 days after Oct. 9, 1984, and after completion of a period of not less than 60 days for notice and opportunity for public comment, the model guidelines.

REPORT ON IMPLEMENTATION OF PROVISIONS FOR SERVICES AND TREATMENT FOR DISABLED INFANTS

Section 126 of Pub. L. 98-457 required the Secretary to submit to Congress, not later than Oct. 1, 1987, a detailed report on the implementation and the effects of the provisions of this part and the amendments made by it (amending sections 5102 and 5103 of this title and enacting provisions set out as notes under sections 5101 to 5103 of this title).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5106g, 10603a of this title.

§ 5104. National clearinghouse for information relating to child abuse

(a) Establishment

Before the end of the 2-year period beginning on April 25, 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

(b) Functions

The Director shall, through the clearinghouse established by subsection (a) of this section—

(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 5105(b) of this title;

(2) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the general population;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988;

(C) the incidence of any such cases related to alcohol or drug abuse; and

(D) State and local recordkeeping with respect to such cases; and

(3) directly or through contract, identify effective programs carried out by the States pursuant to subchapter III of this chapter and provide technical assistance to the States in the implementation of such programs.

(c) Coordination with available resources

In establishing a national clearinghouse as required by subsection (a) of this section, the Director shall—

(1) consult with other Federal agencies that operate similar clearinghouses;

(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

(3) develop a Federal data system involving the elements under subsection (b) of this section which, to the extent practicable, coordinates existing State, regional, and local data systems; and

(4) solicit public comment on the components of such clearinghouse.

(Pub. L. 93-247, title I, §104, formerly §5, Jan. 31, 1974, 88 Stat. 7; Pub. L. 95-266, title I, §104, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98-457, title I, §104, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 105; renumbered title I, §104, and amended Pub. L. 101-126, §§3(a)(1), (2), (b)(2), 6, Oct. 25, 1989, 103 Stat. 764, 765, 768.)

REFERENCES IN TEXT

Section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, referred to in subsec. (b)(2)(B), is section 105(a)(1) of Pub. L. 100-294, which is set out as a note under section 5105 of this title.

AMENDMENTS

1989—Subsec. (b)(1). Pub. L. 101-126, §3(b)(2)(A), made technical amendment to reference to section 5105(b) of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(2)(B). Pub. L. 101-126, §3(b)(2)(B), inserted “of the Child Abuse Prevention, Adoption, and Family Services Act of 1988” after “section 105(a)(1)”.

Subsec. (b)(3). Pub. L. 101-126, §6, added par. (3).

1988—Pub. L. 100-294 amended section generally, substituting provisions relating to national clearinghouse for information relating to child abuse for provisions

relating to authorization of appropriations and funding requirements for child abuse and neglect and sexual abuse programs and projects. See section 5106h of this title.

1984—Pub. L. 98-457, §104(a), struck out designation “(a)” before “There are hereby authorized”, inserted provisions authorizing appropriations of \$33,500,000 for fiscal year 1984, \$40,000,000 for fiscal year 1985, \$41,500,000 for fiscal year 1986, and \$43,100,000 for fiscal year 1987, and substituted “this section except as provided in the succeeding sentence, (A) not less than \$9,000,000 shall be available in each fiscal year to carry out section 5103(b) of this title (relating to State grants), (B) not less than \$11,000,000 shall be available in each fiscal year to carry out sections 5103(a) (relating to demonstration or service projects), 5101(b)(1) and 5101(b)(3) (relating to information dissemination), 5101(b)(5) (relating to research), and 5103(c)(2) (relating to training, technical assistance, and information dissemination) of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated [sic] effectiveness, (C) \$5,000,000 shall be available in each such year for grants and contracts under section 5103(a) of this title for identification, treatment, and prevention of sexual abuse, and (D) \$5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 5103(c)(1) of this title. With respect to any fiscal year in which the total amount appropriated under this section is less than \$30,000,000, funds shall first be available as provided in clauses (A) and (B) in the preceding sentence and of the remainder one-half shall be available as provided for in clause (C) and one-half as provided for in clause (D) in the preceding sentence” for “this section, not less than 50 per centum shall be used for making grants or contracts under sections 5101(b)(5) of this title (relating to research) and 5103(a) of this title (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness, of not less than 25 per centum shall be used for making grants or contracts under section 5103(b)(1) of this title (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 5103(b)(1) of this title (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively”.

Pub. L. 98-457, §104(b), struck out subsec. (b) which authorized appropriations for fiscal years ending Sept. 30, 1978, Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981, respectively, for purpose of making grants and entering into contracts for programs and projects designed to prevent, identify, and treat sexual abuse of children.

1978—Pub. L. 95-266 designated existing provisions as subsec. (a), inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1978, through fiscal year ending Sept. 30, 1981, and provisions setting forth funding requirements for child abuse and neglect programs and projects, and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5105, 5106h of this title.

§ 5105. Research and assistance activities of the National Center on Child Abuse and Neglect

(a) Research

(1) Topics

The Secretary shall, through the Center, conduct research on—

(A) the causes, prevention, identification,¹ treatment and cultural distinctions of child abuse and neglect;

(B) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

(C) the national incidence of child abuse and neglect, including—

(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

(ii) the relationship of child abuse and neglect to nonpayment of child support, cultural diversity, disabilities, and various other factors; and

(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

(2) Priorities

(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 5106 of this title.

(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

(i) publish proposed priorities in the Federal Register for public comment; and

(ii) allow not less than 60 days for public comment on such proposed priorities.

(b) Publication and dissemination of information

The Secretary shall, through the Center—

(1) as a part of research activities, establish a national data collection and analysis program—

(A) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

(i) standardized data on false, unfounded, or unsubstantiated reports; and

(ii) information on the number of deaths due to child abuse and neglect; and

(B) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;

(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 5104 of this title, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 5106c of this title, including an evaluation of—

(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

¹ So in original.

(B) resultant psychological trauma to the child victim;

(4) compile, publish, and disseminate training materials—

(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

(c) Provision of technical assistance

The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

(d) Authority to make grants or enter into contracts

(1) In general

The functions of the Secretary under this section may be carried out either directly or through grant or contract.

(2) Duration

Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

(3) Preference for long-term studies

In making grants for purposes of conducting research under subsection (a) of this section, the Secretary shall give special consideration to applications for long-term projects.

(e) Peer review for grants

(1) Establishment of peer review process

(A) The Secretary shall establish a formal peer review process for purposes of evaluating and reviewing applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

(B) In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Office of Human Development. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year.

(2) Review of applications for assistance

Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

(A) determine and evaluate the merit of each project described in such application;

(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(C) make recommendations to the Secretary concerning whether the application for the project shall be approved.

(3) Notice of approval

(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B) of this section), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B) of this section.

(Pub. L. 93-247, title I, §105, formerly §6, Jan. 31, 1974, 88 Stat. 7; Pub. L. 95-266, title I, §105, Apr. 24, 1978, 92 Stat. 207; Pub. L. 98-457, title I, §105, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 99-401, title I, §104, Aug. 27, 1986, 100 Stat. 906; Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 106; renumbered title I, §105, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(3), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102-295, title I, §§112, 141(5), May 28, 1992, 106 Stat. 190, 200.)

AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102-295, §112(a)(1), substituted “, treatment and cultural distinctions of” for “and treatment of”.

Subsec. (a)(1)(B). Pub. L. 102-295, §112(a)(2), substituted “appropriate, effective and culturally sensitive” for “appropriate and effective”.

Subsec. (a)(1)(C)(ii). Pub. L. 102-295, §§112(a)(3), 141(5), substituted “child support, cultural diversity, disabilities” for “child support, handicaps”.

Subsec. (b)(1). Pub. L. 102-295, §112(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “as a part of research activities establish a national data collection and analysis program, which, to the extent practical, coordinates existing State child abuse and neglect reports and which shall include—

“(A) standardized data on false, unfounded, or unsubstantiated reports; and

“(B) information on the number of deaths due to child abuse and neglect;”.

Subsec. (c). Pub. L. 102-295, §141(5), substituted “disabilities” for “handicaps”.

Subsec. (e)(1)(A). Pub. L. 102-295, §112(c)(1)(A), inserted “and reviewing” after “evaluating”.

Subsec. (e)(1)(B). Pub. L. 102-295, §112(c)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “Members of peer review panels

shall be appointed by the Secretary from among individuals who are not officers or employees of the Office of Human Development Services. In making appointments to such panels, the Secretary shall include only experts in the field of child abuse and neglect."

Subsec. (e)(2)(A). Pub. L. 102-295, §112(c)(2)(A), inserted "and evaluate" after "determine".

Subsec. (e)(2)(C). Pub. L. 102-295, §112(c)(2)(B), added subpar. (C).

Subsec. (e)(3)(A). Pub. L. 102-295, §112(c)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "At the end of each application process, the Secretary shall make available upon request, no later than 14 days after the request, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate the list which identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2) and a list of all applications funded."

1989—Subsecs. (a)(2)(A), (b)(3). Pub. L. 101-126, §3(b)(3), made technical amendments to references to sections 5104, 5106, and 5106c of this title to reflect renumbering of corresponding sections of original act.

1988—Pub. L. 100-294 amended section generally, substituting provisions relating to research and assistance activities of the National Center on Child Abuse and Neglect for provisions relating to Advisory Board on Child Abuse and Neglect. See section 5102 of this title.

1986—Subsec. (a). Pub. L. 99-401, §104(1), inserted after first sentence "The Advisory Board shall meet at least every six months."

Pub. L. 99-401, §104(2), which directed that subsec. (a) be amended by inserting "in order to prevent unnecessary duplication of such programs, to ensure efficient allocation of resources, and to assure that programs effectively address all aspects of the child abuse problem" after "Board" in second sentence, was executed by inserting provision after "Advisory Board" the first time that term appeared in what constituted the second sentence before a new second sentence was added by section 104(1) of Pub. L. 99-401.

1984—Subsec. (a). Pub. L. 98-457, §105(a), (b), struck out "including the Office of Child Development, the Department of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration," before "and not less than three members", and inserted provision that the Advisory Board may be available, at the Secretary's request, to assist the Secretary in coordinating adoption-related activities of the Federal Government.

Subsecs. (b), (c). Pub. L. 98-457, §105(c), redesignated subsec. (c) as (b) and struck out former subsec. (b) which required the Board to review the comprehensive plan submitted to it by the Center pursuant to section 5101(b)(7) of this title, make such changes as it deemed appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after April 24, 1978.

1978—Subsec. (a). Pub. L. 95-266, §105(1), (2), inserted requirement for representation from the general public, and "planned," before "administered" in two places.

Subsec. (b). Pub. L. 95-266, §105(3), substituted provisions relating to review of the plan by the Advisory Board and submission to the President and Congress of a final plan, for provisions relating to a report by the Advisory Board on assisted programs, etc., and submission to the President and Congress.

Subsec. (c). Pub. L. 95-266, §105(3), substituted provisions setting forth compensation and travel expense allowance authorizations for members of the Board, for provisions authorizing use of appropriated funds for required report.

CHILD ABUSE AND DISABILITY

Section 102 of Pub. L. 100-294 directed Director of National Center on Child Abuse and Neglect to conduct a study of incidence of child abuse among children with

handicaps, including children in out-of-home placements, the relationship between child abuse and children's handicapping conditions, and incidence of children who have developed handicapping conditions as a result of child abuse or neglect, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to prevent abuse of disabled children.

CHILD ABUSE AND ALCOHOLIC FAMILIES

Section 103 of Pub. L. 100-294 directed Director of National Center on Child Abuse and Neglect to conduct a study of incidence of child abuse in alcoholic families and relationship between child abuse and familial alcoholism, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to prevent child abuse in alcoholic families.

STUDY OF GUARDIAN-AD-LITEM

Section 104 of Pub. L. 100-294 directed Director of National Center on Child Abuse and Neglect to conduct a study of how individual legal representation of children in cases of child abuse or neglect has been provided in each State, and effectiveness of legal representation of children in cases of abuse or neglect through use of guardian-ad-litem and court appointed special advocates, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to improve legal representation of children in cases of abuse or neglect.

HIGH RISK STUDY

Section 105 of Pub. L. 100-294 directed the Director of National Center on Child Abuse and Neglect to conduct a study to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect, and to report incidence of child abuse and neglect among children who are members of such groups, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to better meet needs of underserved or unserved groups.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5104, 5106h of this title.

§5106. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects

(a) General authority

(1) Demonstration or service programs and projects

The Secretary, through the Center, shall, in accordance with subsections (b) and (c) of this section, make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

(2) Evaluations

In making grants or entering into contracts for demonstration projects, the Secretary

shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or contract, or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

(b) Grants for resource centers

The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

- (1) serving defined geographic areas;
- (2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and
- (3) providing advice and consultation to individuals, agencies, and organizations which request such services.

(c) Discretionary grants

In addition to grants or contracts made under subsection (b) of this section, grants or contracts under this section may be used for the following:

- (1) Training programs—
 - (A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect;
 - (B) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; or
 - (C) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.
- (2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope.
- (3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.
- (4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.
- (5) Respite and crisis nursery programs provided by community-based organizations.

(6)(A) Providing hospital-based information and referral services to—

- (i) parents of children with disabilities; and
- (ii) children who have been neglected or abused and their parents.

(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

- (i) upon the birth or admission of a child with disabilities; and
- (ii) upon the treatment of a child for abuse or neglect.

(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

- (i) the provision of notice to parents that information relating to community services is available;

(ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

- (i) is in a combination with—
 - (I) a health-care provider organization;
 - (II) a child welfare organization;
 - (III) a disability organization; and
 - (IV) a State child protection agency;

(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

(E) In awarding grants under this paragraph, the Secretary shall—

(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

(Pub. L. 93-247, title I, §106, formerly §7, Jan. 31, 1974, 88 Stat. 8; Pub. L. 98-457, title I, §106, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 108; renumbered title I, §106, Pub. L. 101-126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; Pub. L. 102-295, title I, §§113, 141(1), (2), (5), May 28, 1992, 106 Stat. 191, 199, 200.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295, §113(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c)(1)(B). Pub. L. 102-295, §141(5), substituted “disabilities” for “handicaps”.

Pub. L. 102-295, §113(b)(1), inserted “culturally specific” before “instruction”.

Subsec. (c)(1)(C). Pub. L. 102-295, §113(b)(2), added subpar. (C).

Subsec. (c)(6)(A)(i). Pub. L. 102-295, §141(5), substituted “children with disabilities” for “children with handicaps”.

Subsec. (c)(6)(B)(i). Pub. L. 102-295, §141(1), substituted “child with disabilities” for “handicapped child”.

Subsec. (c)(6)(C)(ii). Pub. L. 102-295, §141(2), substituted “child with disabilities” for “child with handicaps”.

1988—Pub. L. 100-294 amended section generally, substituting provision authorizing grants to public agencies and nonprofit private organizations for demonstration or service programs and projects for provision directing the Secretary to ensure coordination among Federal programs related to child abuse and neglect. See section 5106e of this title.

1984—Pub. L. 98-457 substituted “among programs” for “between programs”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5105, 5106h of this title.

§ 5106a. Grants to States for child abuse and neglect prevention and treatment programs

(a) Development and operation grants

The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

(C) improving legal preparation and representation;

(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).

(b) Eligibility requirements

In order for a State to qualify for a grant under subsection (a) of this section, such State shall—

(1) have in effect a State law relating to child abuse and neglect, including—

(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

(A) administrative procedures;

(B) personnel trained in child abuse and neglect prevention and treatment;

(C) training procedures;

(D) institutional and other facilities (public and private); and

(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

(4) provide for—

(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of infor-

mation concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this subchapter and subchapters III and V of this chapter; and

(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this subchapter and subchapters III and V of this chapter for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(c) State program plan

To be eligible to receive a grant under this section, a State shall submit every four years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) of this section that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

(1) Intake and screening

(A) Staffing

The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

(B) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

(C) Public education

An assessment of the State or local agency's public education program with respect to—

- (i) what is child abuse and neglect;
- (ii) who is obligated to report and who may choose to report; and
- (iii) how to report.

(2) Investigation of reports

(A) Response time

The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

(B) Staffing

The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

(C) Interagency coordination

A description of the extent to which interagency coordination processes exist and are available Statewide,¹ and whether protocols or formal policies governing interagency relationships exist in the following areas—

(i) multidisciplinary investigation teams among child welfare and law enforcement agencies;

(ii) interagency coordination for the prevention, intervention and treatment of

¹ So in original. Probably should not be capitalized.

child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and

(iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

(D) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

(E) Legal representation

A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

(3) Case management and delivery of ongoing family services

For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

(A) Response time

The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

(B) Staffing

The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

(C) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

(D) Interagency coordination

The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

(4) General system enhancement

(A) Automation

A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

(B) Assessment tools

A description of whether, how, and what risk assessment tools are used for screening

reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

(C) Information and referral

A description and assessment of the extent to which a State has in place—

(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

(D) Staff capacity and competence

An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

(5) Innovative approaches

A description of—

(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.

(d) Waivers

(1) General rule

Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under subsection (a) of this section may be granted a waiver of any requirement under paragraph (2) of this subsection—

(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such

State is making a good faith effort to comply with such requirement.

(2) Extension

(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

(i) through the end of fiscal year 1988; or

(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

(B) This provision shall be effective retroactively to October 1, 1986.

(3) Requirements under subsection (b)(10)

No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

(e) Reduction of funds in case of failure to obligate

If a State fails to obligate funds awarded under subsection (a) of this section before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of² the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

(f) Restrictions relating to child welfare services

Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act [42 U.S.C. 620 et seq.] shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b) of this section.

(g) Compliance and education grants

The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

(1) the procedures or programs required under subsection (b)(10) of this section;

(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

(B) the parents of such infants; and

(3) 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.

(Pub. L. 93-247, title I, §107, formerly §8, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 110; renumbered title I, §107, Pub. L. 101-126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; amended Pub. L. 102-295, title I, §114(a)-(c), May 28, 1992, 106 Stat. 192, 195; Pub. L. 102-586, §9(b), Nov. 4, 1992, 106 Stat. 5037.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsection (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title IV of the Social Security Act is classified generally to part B (§620 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295, §114(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.”

Subsec. (b)(4). Pub. L. 102-586 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child’s parents or guardians.”

Subsec. (c). Pub. L. 102-295, §114(b), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102-295, §114(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 102-295, §114(c), which directed the amendment of subsec. (d) by substituting “subsection (a) of this section” for “this subsection” in provisions preceding subparagraph (A), was executed by making the substitution the second place that phrase appeared in introductory provisions of par. (1) of subsec. (d) to reflect the probable intent of Congress.

Subsecs. (e) to (g). Pub. L. 102-295, §114(b)(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 114(d) of Pub. L. 102-295, as amended by Pub. L. 103-171, §9(a), Dec. 2, 1993, 107 Stat. 1994, provided that: “The amendments described in subsections (a) and (b) [amending this section] are made upon the date of the enactment of this Act [May 28, 1992]. Such amendments take effect on October 1 of the first fiscal year for which \$40,000,000 or more is made available under subsection (a)(2)(B)(ii) of section 114 of the Child Abuse Prevention and Treatment Act [section 5106h(a)(2)(B)(ii) of this title] (as amended by section 117 of this Act). Prior to such amendments taking effect, section 107(a) of the Child Abuse Prevention and Treatment Act [subsec. (a) of this section], as in effect on the day before the date of the enactment of this Act, continues to be in effect.”

[Pub. L. 103-171, §9(b), Dec. 2, 1993, 107 Stat. 1994, provided that: “The amendments made by subsection (a) [amending section 114(d) of Pub. L. 102-295, set out above] take effect on September 30, 1993.”]

CONGRESSIONAL FINDINGS

Section 9(a) of Pub. L. 102-586 provided that: “The Congress finds that—

“(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

“(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

²So in original. Probably should be “to”.

“(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

“(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

“(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are [sic] defeated when they have the effect of protecting those responsible;

“(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established [sic];

“(7) certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate incidents of death believed to be caused by child abuse or neglect;

“(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

“(9) teams such as those described in paragraph (7) will increase the accountability of child protection services.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5106b, 5106c, 5106h of this title.

§ 5106a-1. Repealed. Pub. L. 103-252, title IV, § 401(b)(2), May 18, 1994, 108 Stat. 672

Section, Pub. L. 93-247, title I, §107A, as added Pub. L. 101-226, §21, Dec. 12, 1989, 103 Stat. 1937; amended Pub. L. 102-295, title I, §115(a), May 28, 1992, 106 Stat. 195, related to emergency child abuse prevention services grants.

§ 5106b. Technical assistance to States for child abuse prevention and treatment programs

(a) Training and technical assistance

The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 5106a(b)(10) of this title; and

(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel.

(b) Limitation on funding

Not more than \$1,000,000 of the funds appropriated for any fiscal year for purposes of carry-

ing out this subchapter may be used to carry out this section.

(Pub. L. 93-247, title I, §108, formerly §9, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 113; renumbered title I, §108, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(4), Oct. 25, 1989, 103 Stat. 764, 765.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101-126, §3(b)(4)(A), made technical amendment to reference to section 5106a(b)(10) of this title to reflect renumbering of corresponding section of original act.

Subsec. (b). Pub. L. 101-126, §3(b)(4)(B), made technical amendment to reference to this subchapter to reflect insertion of title designations in the original act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5106f, 5106h of this title.

§ 5106c. Grants to States for programs relating to investigation and prosecution of child abuse and neglect cases

(a) Grants to States

The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

(2) the handling of cases of suspected child abuse or neglect related fatalities; and

(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

(b) Eligibility requirements

In order for a State to qualify for assistance under this section, such State shall—

(1) fulfill the requirements of sections¹ 5106a(b) of this title;

(2) establish a task force as provided in subsection (c) of this section;

(3) fulfill the requirements of subsection (d) of this section;

(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

(A) make such reports to the Secretary as may reasonably be required; and

(B) maintain and provide access to records relating to activities under subsections (a) and (b) of this section; and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a) of this section.

¹ So in original. Probably should be “section”.

(c) State task forces**(1) General rule**

Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain a State multidisciplinary task force on children's justice (hereinafter referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

(A) individuals representing the law enforcement community;

(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

(D) health and mental health professionals;

(E) individuals representing child protective service agencies;

(F) individuals experienced in working with children with disabilities²

(G) parents; and

(H) representatives of parents' groups.

(2) Existing task force

As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) State task force study

Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—

(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;³

(2) make policy and training recommendations in each of the categories described in subsection (e) of this section.

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) Adoption of State task force recommendations**(1) General rule**

Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children, and which also ensure procedural fairness to the accused; and

(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

(2) Exemption

As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

(f) Funds available

For grants under this section, the Secretary shall use the amount authorized by section 10603a of this title.

(Pub. L. 93-247, title I, §109, formerly §10, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 113; renumbered title I, §109, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(5), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102-295, title I, §116(a), May 28, 1992, 106 Stat. 195.)

AMENDMENTS

1992—Pub. L. 102-295, §116(a)(1), in section catchline inserted "and neglect" after "child abuse".

Subsec. (a). Pub. L. 102-295, §116(a)(2), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse."

Subsec. (b)(1). Pub. L. 102-295, §116(a)(3)(A), substituted "sections 5106a(b) of this title" for "sections 5106a(b) and 5106a(e) of this title or receive a waiver under section 5106a(c) of this title".

² So in original. Probably should be followed by a semicolon.

³ So in original. Probably should be followed by "and".

Subsec. (b)(4). Pub. L. 102-295, §116(a)(3)(C), inserted “annually” after “submit”.

Subsec. (b)(5). Pub. L. 102-295, §116(a)(3)(B), (D), added par. (5).

Subsec. (c)(1). Pub. L. 102-295, §116(a)(4), in introductory provisions inserted “, and maintain” after “designate” and substituted “child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities” for “child abuse”, in subpar. (B) substituted “judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect” for “judicial and legal officers”, in subpar. (C) inserted “, including both attorneys for children and, where such programs are in operation, court appointed special advocates”, and in subpar. (F) substituted “disabilities” for “handicaps”.

Subsec. (d). Pub. L. 102-295, §116(a)(5), in introductory provisions substituted “and at three year intervals thereafter, the State task force shall comprehensively” for “the State task force shall”, in par. (1) substituted “both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;” for “judicial handling of cases of child abuse, particularly child sexual abuse; and” and in par. (2) inserted “policy and training” before “recommendations”.

Subsec. (e)(1)(A). Pub. L. 102-295, §116(a)(6)(A), substituted “child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim’s family” for “child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim”.

Subsec. (e)(1)(B). Pub. L. 102-295, §116(a)(6)(B), which directed substitution of “improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children” for “improve the rate” and all that followed through “abuse cases”, was executed by making the substitution for “improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases” to reflect the probable intent of Congress and the fact that “abuse cases” appeared twice.

Subsec. (e)(1)(C). Pub. L. 102-295, §116(a)(6)(C), inserted “, protocols” after “regulations” and “and exploitation” after “sexual abuse”.

1989—Subsec. (b)(1). Pub. L. 101-126, §3(b)(5), made technical amendments to references to section 5106a of this title to reflect renumbering of corresponding section of original act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5105, 5106f of this title.

§ 5106d. Miscellaneous requirements relating to assistance

(a) Construction of facilities

(1) Restriction on use of funds

Assistance provided under this subchapter and subchapters III and V of this chapter may not be used for construction of facilities.

(2) Lease, rental, or repair

The Secretary may authorize the use of funds received under this subchapter and subchapters III and V of this chapter—

(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

(B) for the repair or minor remodeling or alteration of existing facilities.

(b) Geographical distribution

The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this subchapter and subchapters III and V of this chapter among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this subchapter and subchapters III and V of this chapter.

(c) Prevention activities

The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this subchapter and subchapters III and V of this chapter is available for discretionary research and demonstration grants.

(d) Limitation

No funds appropriated for any grant or contract pursuant to authorizations made in this subchapter and subchapters III and V of this chapter may be used for any purpose other than that for which such funds were authorized to be appropriated.

(Pub. L. 93-247, title I, §110, formerly §11, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 115; renumbered title I, §110, Pub. L. 101-126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764.)

§ 5106e. Coordination of child abuse and neglect programs

The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this subchapter and subchapters III and V of this chapter and other such programs which are assisted by Federal funds.

(Pub. L. 93-247, title I, §111, formerly §12, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §111, Pub. L. 101-126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764.)

§ 5106f. Reports

(a) Coordination efforts

Not later than March 1 of the second year following April 25, 1988, and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

(b) Effectiveness of State programs and technical assistance

Not later than two years after the first fiscal year for which funds are obligated under section 10603a of this title, the Secretary shall submit to

the appropriate committees of Congress a report evaluating the effectiveness of—

- (1) assisted programs in achieving the objectives of section 5106c of this title; and
- (2) the technical assistance provided under section 5106b of this title.

(Pub. L. 93-247, title I, §112, formerly §13, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §112, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(6), Oct. 25, 1989, 103 Stat. 764, 765.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-126, §3(b)(6), made technical amendments to references to sections 5106b and 5106c of this title to reflect renumbering of corresponding sections of original act.

§ 5106f-1. Report concerning voluntary reporting system

Not later than April 30, 1993, and annually thereafter, the Secretary of Health and Human Services, acting through the Director of the National Center on Child Abuse and Neglect, shall prepare and submit to the appropriate committees of Congress a report concerning the measures being taken to assist States in implementing a voluntary reporting system for child abuse and neglect. Such reports shall contain information concerning the extent to which the child abuse and neglect reporting systems developed by the States are coordinated with the automated foster care and adoption reporting system required under section 679 of this title.

(Pub. L. 102-295, title I, §142, May 28, 1992, 106 Stat. 200.)

CODIFICATION

Section was enacted as part of the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992, and not as part of title I of the Child Abuse Prevention and Treatment Act which comprises this subchapter.

§ 5106g. Definitions

For purposes of this subchapter—

(1) the term “board” means the Advisory Board on Child Abuse and Neglect established under section 5102 of this title;

(2) the term “Center” means the National Center on Child Abuse and Neglect established under section 5101 of this title;

(3) the term “child” means a person who has not attained the lesser of—

(A) the age of 18; or

(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

(4) the term “child abuse and neglect” means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child’s welfare, under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

(5) the term “person who is responsible for the child’s welfare” includes—

(A) any employee of a residential facility; and

(B) any staff person providing out-of-home care;

(6) the term “Secretary” means the Secretary of Health and Human Services;

(7) the term “sexual abuse” includes—

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(8) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(9) the term “task force” means the Inter-Agency Task Force on Child Abuse and Neglect established under section 5103 of this title; and

(10) the term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

(A) the infant is chronically and irreversibly comatose;

(B) the provision of such treatment would—

(i) merely prolong dying;

(ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(iii) otherwise be futile in terms of the survival of the infant; or

(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(Pub. L. 93-247, title I, §113, formerly §14, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §113, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(7), Oct. 25, 1989, 103 Stat. 764, 765.)

AMENDMENTS

1989—Pub. L. 101-126, §3(b)(7)(A), made technical amendment to reference to this subchapter to reflect the insertion of title designations in the original act.

Pars. (1), (2), (9). Pub. L. 101-126, §3(b)(7)(B)–(D), made technical amendments to references to sections 5101, 5102, and 5103 of this title to reflect renumbering of corresponding sections of original act.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 5106h. Authorization of appropriations

(a) In general

(1) Authorization

There are authorized to be appropriated to carry out this subchapter, except for section 5106a-1¹ of this title, \$100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(2)² Allocations

(A) Of the amounts appropriated under paragraph (1) for a fiscal year, \$5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 5106a(g) of this title.

(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

(i) 33 $\frac{1}{3}$ percent shall be available for activities under sections 5104, 5105, and 5106 of this title; and

(ii) 66 $\frac{2}{3}$ percent of such amounts shall be made available in each such fiscal year for activities under sections 5106a and 5106b of this title.

(b) Availability of funds without fiscal year limitation

The Secretary shall ensure that funds appropriated pursuant to authorizations in this subchapter shall remain available until expended for the purposes for which they were appropriated.

(Pub. L. 93-247, title I, §114, formerly §15, as added Pub. L. 100-294, title I, §101, Apr. 25, 1988, 102 Stat. 117; renumbered title I, §114, and amended Pub. L. 101-126, §3(a)(1), (2), (b)(8), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102-295, title I, §117(a), May 28, 1992, 106 Stat. 197.)

REFERENCES IN TEXT

Section 5106a-1 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 103-252, title IV, §401(b)(2), May 18, 1994, 108 Stat. 672.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There are authorized to be appropriated for purposes of carrying out this subchapter \$48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, except as provided in the succeeding sentence (1)(A) \$11,000,000 shall be available for activities under sections 5104, 5105, and 5106 of this title, and (B), \$9,000,000 shall be available in each fiscal year for activities under sections 5106a(a) and 5106b of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) \$5,000,000 shall be available in each such year for grants and contracts under section 5106(a) of this title, for identification, treatment, and prevention of sexual abuse, and (3) \$5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 5106a(f) of this title. With respect to any fiscal year in which the total amount appropriated under this section is less

¹ See References in Text note below.

² See Effective Date of 1992 Amendment note below.

than \$30,000,000, no less than \$20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence.”

1989—Pub. L. 101-126, §3(b)(8), made technical amendments to references to this subchapter and to sections 5104, 5105, 5106, 5106a, and 5106b of this title to reflect the insertion of title designations and renumbering of corresponding sections in original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 117(b) of Pub. L. 102-295 provided that: “Paragraph (2) of section 114(a) [42 U.S.C. 5106h(a)(2)], as amended by subsection (a), shall become effective on October 1 of the first fiscal year for which \$30,000,000 or more would be available under subsection (a)(2)(B)(ii) of such section 114 (if such subsection were in effect), and until such fiscal year, the second and third sentences of section 114(a) [see 1992 Amendment note above] (as in effect prior to the amendment made by such subsection (a)) shall continue in effect.”

§ 5107. Discretionary programs; authorization of appropriations

(a)(1) The Secretary of Health and Human Services, either directly, through grants to States and public and private, nonprofit organizations and agencies, or through jointly financed cooperative arrangements with States, public agencies, and other agencies and organizations, is authorized to provide for activities of national significance related to child abuse prevention and treatment and adoption reform, including operation of a national center to collect and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(2) The Secretary, in carrying out the provisions of this subsection, shall provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with section 5101(a) of this title for each of the fiscal years 1982 and 1983.

(3) If the Secretary determines, in fiscal year 1982 or 1983, to carry out any of the activities described in section 5101(b) of this title, the Secretary shall carry out such activities through the National Center on Child Abuse and Neglect.

(b) There is authorized to be appropriated to carry out this section \$12,000,000 for each of the fiscal years 1982 and 1983. Of the amounts appropriated under this subsection for any fiscal year, not less than \$2,000,000 shall be available to carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 [42 U.S.C. 5111 et seq.].

(Pub. L. 97-35, title VI, §610, Aug. 13, 1981, 95 Stat. 488.)

REFERENCES IN TEXT

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, referred to in subsec. (b), is Pub. L. 95-266, Apr. 24, 1978, 92 Stat. 205, as amended. Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is classified generally to subchapter II (§5111 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 5101 of this title and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of title I of

the Child Abuse Prevention and Treatment Act which comprises this subchapter.

SUBCHAPTER II—ADOPTION OPPORTUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5107 of this title.

§ 5111. Congressional findings and declaration of purpose

(a) Findings

Congress finds that—

(1) the number of children in substitute care increased by nearly 50 percent between 1985 and 1990, as our Nation's foster care population included more than 400,000 children at the end of June, 1990;

(2) increasingly children entering foster care have complex problems which require intensive services;

(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

(5) many thousands of children remain in institutions or foster homes solely because of local and other barriers to their placement in permanent, adoptive homes;

(6) the majority of such children are of school age, members of sibling groups or disabled;

(7) currently one-half of children free for adoption and awaiting placement are minorities;

(8) adoption may be the best alternative for assuring the healthy development of such children;

(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

(b) Purpose

It is the purpose of this subchapter to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health and Human Services to—

(A) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(B) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(C) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

(Pub. L. 95-266, title II, §201, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98-457, title II, §201, Oct. 9, 1984, 98 Stat. 1755; Pub. L. 102-295, title IV, §401, May 28, 1992, 106 Stat. 211.)

AMENDMENTS

1992—Pub. L. 102-295 amended section generally, designating existing provisions as subsecs. (a) and (b), inserting findings relating to the number of children in substitute care, foster care children with complex problems which require intensive services, infants born without prenatal care, addicted to alcohol or other drugs, or exposed to infection with the etiologic agent for human immunodeficiency virus, and percentage of children awaiting adoption who are minorities, inserting as purposes of this subchapter to provide a mechanism to recruit prospective parents for children awaiting adoption and to demonstrate expeditious ways to free children for adoption, and striking out as a purpose to provide a mechanism to coordinate with Federal departments and agencies to provide national adoption and foster care information data-gathering and analysis system.

1984—Pub. L. 98-457, §201(a), (b)(1), in provisions before par. (1), inserted "the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and that some such children are in need of placement in permanent, adoptive homes, that" and substituted "should not have medically indicated treatment withheld from them, nor be maintained in foster care" for "should not be maintained in foster care" and "children with special needs, including disabled infants with life-threatening conditions, by" for "children with special needs by".

Par. (2). Pub. L. 98-457, §201(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "providing a mechanism for the Department of Health and Human Services to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children."

§ 5112. Repealed. Pub. L. 102-295, title IV, § 402, May 28, 1992, 106 Stat. 213

Section, Pub. L. 95-266, title II, §202, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98-457, title II, §202, Oct. 9, 1984, 98 Stat. 1756, related to model adoption legislation and procedures.

§ 5113. Information and service functions by appropriate administrative arrangement

(a) Establishment in Department of Health and Human Services

The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this subchapter. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs. The Secretary shall, not later than 12 months after May 28, 1992, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this subchapter, and such reports shall be made available to the public.

(b) Implementation authorities

In connection with carrying out the provisions of this subchapter, the Secretary shall—

(1) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of step-parents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity;

(7) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health and Human Services relating to adoption;

(8) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

(A) promote professional leadership development of minorities in the adoption field;

(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and

(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and

(9) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

(A) which may include such activities as—

(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

(ii) recruitment of prospective adoptive families for such children;

(iii) expediting, where appropriate, the legal availability of such children;

(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

(v) formation of prospective adoptive family support groups;

(vi) training of personnel of—

(I) public agencies;
 (II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

(vii) use of volunteers and adoptive parent groups; and

(viii) any other activities determined by the Secretary to further the purposes of this subchapter; and

(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.

(c) Post legal adoption services

(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

(A) individual counseling;

(B) group counseling;

(C) family counseling;

(D) case management;

(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

(F) assistance to adoptive parent organizations; and

(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(d) Placement of foster care children

(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications¹ shall give priority to grantees who propose improve-

ments designed to continue in the absence of Federal funds.

(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed \$1,000,000. No payment may be made under this subsection unless an amount in excess of \$5,000,000 is appropriated for such fiscal year under section 5115(a) of this title.

(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this subchapter.

(Pub. L. 95-266, title II, § 203, Apr. 24, 1978, 92 Stat. 209; Pub. L. 98-457, title II, § 203, Oct. 9, 1984, 98 Stat. 1756; Pub. L. 100-294, title II, § 202, Apr. 25, 1988, 102 Stat. 122; Pub. L. 102-295, title IV, § 403, May 28, 1992, 106 Stat. 213.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295, § 403(1), inserted “, on-site technical assistance” after “consultant services” and “including salaries and travel costs,” after “administrative expenses,” and inserted at end “The Secretary shall, not later than 12 months after May 28, 1992, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this subchapter, and such reports shall be made available to the public.”

Subsec. (b)(1), (2). Pub. L. 102-295, § 403(2)(A), (B), added par. (2), redesignated former par. (2) as (1), and struck out former par. (1) which read as follows: “provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census and appropriate State and local agencies) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system;”.

Subsec. (b)(4). Pub. L. 102-295, § 403(2)(C), inserted “, and to promote professional leadership training of minorities in the adoption field”.

Subsec. (b)(8), (9). Pub. L. 102-295, § 403(2)(D), added par. (8) and redesignated former par. (8) as (9).

1988—Subsec. (b)(8). Pub. L. 100-294, § 202(a), added par. (8).

Subsecs. (c), (d). Pub. L. 100-294, § 202(b), (c), added subsecs. (c) and (d).

1984—Subsec. (a). Pub. L. 98-457, § 203(a), (b)(1), substituted “Health and Human Services” for “Health, Education, and Welfare” and inserted provision requiring the Secretary to make available services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs.

Subsec. (b). Pub. L. 98-457, § 203(c)(1), substituted “this subchapter” for “subsection (a) of this section” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-457, § 203(c)(2), substituted “provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census and appropriate State and local agencies) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system” for “provide (directly or by grant to or con-

¹ So in original. Probably should be followed by a comma.

tract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law”.

Subsec. (b)(4). Pub. L. 98-457, § 203(c)(3)(A), substituted “adoptive family groups and minority groups” for “parent groups”.

Subsec. (b)(5), (6). Pub. L. 98-457, § 203(c)(3)(B), (C), added pars. (5) and (6). Former par. (5) redesignated (7).

Subsec. (b)(7). Pub. L. 98-457, § 203(c)(3)(C), (D), redesignated former par. (5) as (7) and substituted “Health and Human Services” for “Health, Education, and Welfare”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5115 of this title.

§ 5114. Study and report of unlicensed or unregulated adoption placements

The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after April 24, 1978) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of step-parents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

(Pub. L. 95-266, title II, § 204, Apr. 24, 1978, 92 Stat. 210.)

§ 5115. Authorization of appropriations

(a) There are authorized to be appropriated, \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this subchapter except for programs and activities authorized under sections 5113(b)(9) and 5113(c)(1) of this title.

(b) For any fiscal year in which appropriations under subsection (a) of this section exceeds \$5,000,000, there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(b)(9) of this title, and there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(c)(1) of this title.

(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this subchapter shall remain available until expended for the purposes for which they were appropriated.

(Pub. L. 95-266, title II, § 205, Apr. 24, 1978, 92 Stat. 211; Pub. L. 98-457, title II, § 204, Oct. 9, 1984, 98 Stat. 1757; Pub. L. 100-294, title II, § 201, Apr. 25, 1988, 102 Stat. 122; Pub. L. 102-295, title IV, § 404, May 28, 1992, 106 Stat. 214.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295, § 404(1), added subsec. (a) and struck out former subsec. (a) which read as follows: “There are hereby authorized to be appropriated \$6,000,000 for the fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out programs and activities

under this subchapter except for programs and activities authorized under sections 5113(b)(8) and 5113(c)(1) of this title.”

Subsec. (b). Pub. L. 102-295, § 404(2), substituted “\$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(b)(9) of this title, and there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(c)(1) of this title” for “\$3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 5113(b)(8) of this title, and there are authorized to be appropriated \$3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 5113(c)(1) of this title”.

1988—Pub. L. 100-294 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1978, such sums as may be necessary for the succeeding three fiscal years, and \$5,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987, to carry out this subchapter.”

1984—Pub. L. 98-457 inserted provisions authorizing appropriations of \$5,000,000 for each of fiscal years 1984, 1985, 1986, and 1987.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5113 of this title.

§ 5115a. Multiethnic placements

(a) Activities

(1) Prohibition

An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) Permissible consideration

An agency or entity to which paragraph (1) applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

(3) “Placement decision” defined

As used in this subsection, the term “placement decision” means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) Equitable relief

Any individual who is aggrieved by an action in violation of subsection (a) of this section, taken by an agency or entity described in subsection (a) of this section, shall have the right

to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) Federal guidance

Not later than 6 months after October 20, 1994, the Secretary of Health and Human Services shall publish guidance to concerned public and private agencies and entities with respect to compliance with this subpart.¹

(d) Deadline for compliance

(1) In general

Except as provided in paragraph (2), an agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this subpart¹ not later than six months after publication of the guidance referred to in subsection (c) of this section, or one year after October 20, 1994, whichever occurs first.

(2) Authority to extend deadline

If a State demonstrates to the satisfaction of the Secretary that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this subpart,¹ the Secretary may extend the compliance date for the State a reasonable number of days after the close of the first State legislative session beginning after the date the guidance referred to in subsection (c) of this section is published.

(e) Noncompliance deemed civil rights violation

Noncompliance with this subpart¹ is deemed a violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(f) No effect on Indian Child Welfare Act of 1978

Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

(Pub. L. 103-382, title V, §553, Oct. 20, 1994, 108 Stat. 4056.)

REFERENCES IN TEXT

This subpart, referred to in subsecs. (c) to (e), means subpart 1 of part E of title V of Pub. L. 103-382, Oct. 20, 1994, 108 Stat. 4056, which enacted this section, amended section 622 of this title, and enacted provisions set out as notes below. For complete classification of subpart to the Code, see Short Title note below and Tables.

The Civil Rights Act of 1964, referred to in subsec. (e), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Indian Child Welfare Act of 1978, referred to in subsec. (f), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

CODIFICATION

Section was enacted as part of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 and also as part of the Improving America's Schools Act of 1994, and not as part of title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 Act which comprises this subchapter.

¹ See References in Text note below.

SHORT TITLE

Section 551 of Pub. L. 103-382 provided that: "This subpart [subpart 1 (§§551-554) of part E of title V of Pub. L. 103-382, enacting this section, amending section 622 of this title, and enacting provisions set out below] may be cited as the 'Howard M. Metzenbaum Multiethnic Placement Act of 1994'."

FINDINGS AND PURPOSE

Section 552 of Pub. L. 103-382 provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) nearly 500,000 children are in foster care in the United States;

"(2) tens of thousands of children in foster care are waiting for adoption;

"(3) 2 years and 8 months is the median length of time that children wait to be adopted;

"(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

"(5) active, creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

"(b) PURPOSE.—It is the purpose of this subpart [subpart 1 of part E of title V of Pub. L. 103-382, see Short Title note above] to promote the best interests of children by—

"(1) decreasing the length of time that children wait to be adopted;

"(2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and

"(3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs."

SUBCHAPTER III—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

CODIFICATION

Subchapter is comprised of title II of the Child Abuse Prevention and Treatment Act, Pub. L. 93-247. Titles I and III of that Act are classified to subchapters I (§5101 et seq.) and V (§5118 et seq.) of this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5101, 5102, 5103, 5104, 5106a, 5106d, 5106e of this title; title 31 section 6703.

§5116. Community-based family resource programs

(a) Purpose

The purpose of this subchapter is to assist each State to develop and implement, or expand and enhance, a comprehensive, statewide system of family resource services through innovative funding mechanisms and collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

(b) Authority

The Secretary shall make grants to States on a formula basis for the purpose of—

(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs

which are responsive to the unique and diverse strengths of children and families;

(2) promoting child abuse and neglect prevention activities;

(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

(5) encouraging public and private partnerships in the establishment and expansion of family resource programs; and

(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family resource programs.

(c) Eligibility for grants

A State is eligible for a grant under this section for any fiscal year if—

(1) such State has established or maintained in the previous fiscal year—

(A) a trust fund, including appropriations for such fund; or

(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

(d) Amount of grant

(1) In general

Amounts appropriated for a fiscal year to provide grants under this section shall be allotted to the designated lead agencies of eligible States in each fiscal year so that—

(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than \$100,000; and

(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

(2) Allocation

Funds identified by the State for the purpose of qualifying for incentive funds under paragraph (1)(B) shall be allocated through the mechanism used to determine State eligibility under subsection (c) of this section and shall be controlled by the lead agency described in subsection (f)(1) of this section.

(e) Existing grants

A State or entity that has a grant in effect on May 18, 1994, under the Family Resource and

Support Program or the Emergency Child Abuse Prevention Grants Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

(f) Application

No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines to be essential to carry out the purposes and provisions of this section, including—

(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

(A) is the trust fund advisory board, or an existing organization created by executive order or State statute that is not an existing State agency, that has interdisciplinary governance, including participants from communities, and that integrates family resource services and leverages State, Federal, and private funds for family resource programs; or

(B) with respect to a State without a trust fund mechanism or other organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a) of this section, and shall have—

(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

(B) a commitment to parental participation in the design and implementation of family resource programs;

(C) the capacity to promote a statewide system of family resource programs throughout the State; and

(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to, and funding for, family resource services across agencies;

(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

(B) provides a written strategic plan for the establishment of a network of family resource programs (publicly available and funded through public and private sources) that identifies specific measurable goals and objectives;

(C) involves appropriate personnel in the process, including—

- (i) parents (including parents of children with disabilities) and prospective participants in family resource programs, including respite care programs;
- (ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;
- (iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;
- (iv) representatives of the business community;
- (v) representatives of general purpose local governments;
- (vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;
- (vii) representatives of local communities in which family resource programs are likely to be located;
- (viii) representatives of groups with expertise in providing services to children with disabilities; and
- (ix) other individuals with expertise in the services that the family resource programs of the State intend to offer; and

(D) coordinates activities funded under this subchapter with—

- (i) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act [20 U.S.C. 1471 et seq.];
- (ii) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));
- (iii) the State Rehabilitation Advisory Council established under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];
- (iv) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.];
- (v) the Head Start State Collaboration project;
- (vi) the State Advisory group designated in the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.]; and
- (vii) other local or regional family service councils within the State, to the extent that such councils exist;

(4) an inventory and description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(5) evidence that Federal assistance received under this section—

(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource network; and

(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

(9) assurances that the State program will maintain cultural diversity and be culturally competent;

(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g) of this section;

(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

(14) a plan for providing training, technical assistance, and other assistance to local communities in program development and networking activities;

(15) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

(16) a description of proposed actions by the State that will facilitate the changing of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of family resource services; and

(17) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

(g) Local program requirements**(1) In general**

A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocational rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

(C) identify appropriate community-based organizations to administer such programs locally;

(D) provide core services, and other services directly or through contracts or agreements with other local agencies;

(E) involve parents in the development, operation, and governance of the program; and

(F) participate in the development and maintenance of a statewide network of family resource programs.

(2) Priority

In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

(h) Definitions

As used in this section:

(1) Children with disabilities

The term “children with disabilities” has the meaning given such term in section 602(a)(2) of¹ Individuals With² Disabilities Education Act [20 U.S.C. 1401(a)(1)].

(2) Community referral services

The term “community referral services” means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

(3) Culturally competent

The term “culturally competent” means services, supports, or other assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of those individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(4) Family resource program

The term “family resource program” means a program that offers community-based serv-

ices that provide sustained assistance and support to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(C) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(5) Family resource services

The term “family resource services” means—

(A) core services that must be provided directly by the family resource program under this section, including—

(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

(iii) outreach services;

(iv) community referral services; and

(v) follow-up services; and

(B) other services, which may be provided either directly or through referral, including—

(i) early care and education (such as child care and Head Start);

(ii) respite services;

(iii) job readiness and counseling services (including skill training);

(iv) education and literacy services;

(v) nutritional education;

(vi) life management skills training;

(vii) peer counseling and crisis intervention, and family violence counseling services;

(viii) referral for health (including prenatal care) and mental health services;

(ix) substance abuse treatment; and

(x) services to support families of children with disabilities that are designed to prevent inappropriate out-of-the-home placement and maintain family unity.

(6) Interdisciplinary governance

The term “interdisciplinary governance” includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

(7) Outreach services

The term “outreach services” means services provided to ensure (through home visits

¹ So in original. Probably should be “section 602(a)(1) of the”.

² So in original. Probably should not be capitalized.

or other methods) that parents and other caretakers are aware of and able to participate in family resource program activities.

(8) Respite services

The term “respite services” means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

- (A) The children are in danger of abuse or neglect.
- (B) The children have experienced abuse or neglect.
- (C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child’s home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child’s home and community.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter, \$50,000,000 for fiscal year 1995.

(Pub. L. 93-247, title II, §201, as added Pub. L. 103-252, title IV, §401(a), May 18, 1994, 108 Stat. 666.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (f)(3)(D)(i), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended. Part H of the Act is classified generally to subchapter VIII (§1471 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (f)(3)(D)(iii), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (f)(3)(D)(iv), is title I of Pub. L. 98-164, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, which is classified generally to chapter 75 (§6000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (f)(3)(D)(vi), is Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

PRIOR PROVISIONS

Prior sections 5116 to 5116g were omitted in the general amendment of this subchapter by Pub. L. 103-252, §401(a).

Section 5116, Pub. L. 93-247, title II, §201, formerly Pub. L. 98-473, title IV, §402, Oct. 12, 1984, 98 Stat. 2197; renumbered §201 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(a), Oct. 25, 1989, 103 Stat. 764, 766; Pub. L. 102-295, title I, §121(b), May 28, 1992, 106 Stat. 198, set forth purpose of subchapter to assist States in supporting child abuse and neglect prevention activities through community based grants.

Section 5116a, Pub. L. 93-247, title II, §202, formerly Pub. L. 98-473, title IV, §403, Oct. 12, 1984, 98 Stat. 2197;

renumbered §202 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(b), Oct. 25, 1989, 103 Stat. 764, 766, defined “Secretary” and “State” as used in this subchapter.

Section 5116b, Pub. L. 93-247, title II, §203, formerly Pub. L. 98-473, title IV, §404, Oct. 12, 1984, 98 Stat. 2197; renumbered §203 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(c), 5, Oct. 25, 1989, 103 Stat. 764, 766-768; Pub. L. 102-295, title I, §122, May 28, 1992, 106 Stat. 198, authorized Secretary to make grants and authorized appropriations to carry out this subchapter.

Section 5116c, Pub. L. 93-247, title II, §204, formerly Pub. L. 98-473, title IV, §405, Oct. 12, 1984, 98 Stat. 2198; renumbered §204 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(d), Oct. 25, 1989, 103 Stat. 764, 766, 767; Pub. L. 102-295, title I, §123, May 28, 1992, 106 Stat. 198, established requirement for State grant eligibility.

Section 5116d, Pub. L. 93-247, title II, §205, formerly Pub. L. 98-473, title IV, §406, Oct. 12, 1984, 98 Stat. 2198; renumbered §205 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), (2), 4(e), Oct. 25, 1989, 103 Stat. 764, 766, 767; Pub. L. 102-295, title I, §124, May 28, 1992, 106 Stat. 198, related to grant allotments, required use of grants, and grant application requirements.

Section 5116e, Pub. L. 93-247, title II, §206, formerly Pub. L. 98-473, title IV, §407, Oct. 12, 1984, 98 Stat. 2199; renumbered §206 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(f), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to withholding of grant payments upon failure to comply with provisions of this subchapter.

Section 5116f, Pub. L. 93-247, title II, §207, formerly Pub. L. 98-473, title IV, §408, Oct. 12, 1984, 98 Stat. 2199; renumbered §207 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(1), 4(g), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to audits of grant recipients.

Section 5116g, Pub. L. 93-247, title II, §208, formerly Pub. L. 98-473, title IV, §409, Oct. 12, 1984, 98 Stat. 2199; renumbered §208 of Pub. L. 93-247, and amended Pub. L. 101-126, §§2(a), 3(a)(3), (c)(3), 4(h), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to reports to Congress.

SUBCHAPTER IV—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES

§ 5117. Congressional findings

The Congress finds that it is necessary to establish demonstration programs of grants to the States to assist private and public agencies and organizations to provide: (A) temporary non-medical child care for children with special needs to alleviate social, emotional, and financial stress among children and families of such children, and (B) crisis nurseries for children who are abused and neglected, at risk of abuse or neglect, or who are in families receiving child protective services.

(Pub. L. 99-401, title II, §202, Aug. 27, 1986, 100 Stat. 907.)

EFFECTIVE DATE

Section 207 of title II of Pub. L. 99-401 provided that: “This title [enacting this subchapter] shall take effect October 1, 1986.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-295, title II, §201, May 28, 1992, 106 Stat. 200, provided that: “This title [amending sections 5117c and 5117d of this title] may be cited as the ‘Temporary Child Care for Children With Disabilities and Crisis Nurseries Act Amendments of 1992.’”

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-127, §1, Oct. 25, 1989, 103 Stat. 770, provided that: “This Act [amending sections 5117a, 5117c, and

5117d of this title, enacting provisions set out as a note under section 5117a of this title, and amending provisions set out as a note under this section] may be cited as the ‘Children With Disabilities Temporary Care Reauthorization Act of 1989’.”

SHORT TITLE

Section 201 of title II of Pub. L. 99-401, as amended by Pub. L. 101-127, § 6, Oct. 25, 1989, 103 Stat. 772, provided that: “This title [enacting this subchapter] may be cited as the ‘Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986’.”

§ 5117a. Temporary child care for children with disabilities and chronically ill children

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide in-home or out-of-home temporary non-medical child care for children with disabilities, and children with chronic or terminal illnesses. Such care shall be provided on a sliding fee scale with hourly and daily rates.

(Pub. L. 99-401, title II, § 203, Aug. 27, 1986, 100 Stat. 907; Pub. L. 101-127, § 2(1), Oct. 25, 1989, 103 Stat. 770.)

AMENDMENTS

1989—Pub. L. 101-127 substituted “children with disabilities” for “handicapped children”.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7 of Pub. L. 101-127 provided that: “The amendments made by this Act [amending this section, sections 5117c and 5117d of this title, and provisions set out as a note under section 5117 of this title] shall take effect October 1, 1989, or on the date of the enactment of this Act [Oct. 25, 1989], whichever occurs later.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5117c of this title.

§ 5117b. Crisis nurseries

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide crisis nurseries for children who are abused and neglected, are at high risk of abuse and neglect, or who are in families receiving child protective services. Such service shall be provided without fee for a maximum of 30 days in any year. Crisis nurseries shall also provide referral to support services.

(Pub. L. 99-401, title II, § 204, Aug. 27, 1986, 100 Stat. 907.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5117c of this title.

§ 5117c. Administrative provisions

(a) Applications

(1)(A) Any State which desires to receive a grant under section 5117a or 5117b of this title shall submit an application to the Secretary in such form and at such times as the Secretary may require. Such application shall—

(i) describe the proposed State program, including the services to be provided, the agen-

cies and organizations that will provide the services, and the criteria for selection of children and families for participation in projects under the program;

(ii) contain an estimate of the cost of developing, implementing, and evaluating the State program;

(iii) set forth the plan for dissemination of the results of the projects;

(iv) specify the State agency designated to administer programs and activities assisted under this subchapter and the plans for coordinating interagency support of the program; and

(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 5117a of this title.

(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

(i) receive Federal financial assistance; and

(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.

(2) Such application shall contain assurances that—

(A) not more than 5 percent of funds made available under this subchapter will be used for State administrative costs;

(B) projects will be of sufficient size, scope, and quality to achieve the objectives of the program;

(C) in the distribution of funds made available under section 5117a of this title, a State will give priority consideration to agencies and organizations with experience in working with children with disabilities, with chronically ill children, and with the families of such children, and which serve communities with the greatest need for such services;

(D) in the distribution of funds made available under section 5117b of this title, the State will give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and which serve communities which demonstrate the greatest need for such services; and

(E) Federal funds made available under this subchapter will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this subchapter, and in no case supplant such State or local funds.

(b) Award of grants

(1) In reviewing applications for grants under this subchapter, the Secretary shall consider,

among other factors, the equitable geographical distribution of grants.

(2) In the award of temporary non-medical child care demonstration grants under section 5117a of this title, the Secretary shall give a preference to States in which such care is unavailable.

(3) Of the funds appropriated under section 5117d of this title, one-half shall be available for grants under section 5117a of this title and one-half shall be available for grants under section 5117b of this title.

(c) Evaluations

States receiving grants under this subchapter, shall annually submit a report to the Secretary evaluating funded programs. Such report shall include—

(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

(B) with respect to services provided by the States pursuant to section 5117a of this title, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in subsection (a)(1)(B) of this section.

(d) Definitions

For the purposes of this subchapter—

(1) the term “Secretary” means the Secretary of Health and Human Services;

(2) the term “children with disabilities” has the meaning given such term in section 1401(a)(1) of title 20;

(3) the term “crisis nursery” means a center providing temporary emergency services and care for children;

(4) the term “non-medical child care” means the provision of care to provide temporary relief for the primary caregiver; and

(5) the term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(Pub. L. 99-401, title II, §205, Aug. 27, 1986, 100 Stat. 908; Pub. L. 101-127, §§2(2), 3, 4, Oct. 25, 1989, 103 Stat. 770, 771; Pub. L. 101-476, title IX, §901(a)(3), (g), Oct. 30, 1990, 104 Stat. 1142, 1151;

Pub. L. 102-295, title II, §202, May 28, 1992, 106 Stat. 200.)

AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102-295, §202(b), which directed the amendment of cl. (vi) by substituting “(v)” for “(vi)”, could not be executed because subpar. (A) does not contain a cl. (vi).

Subsec. (d)(2). Pub. L. 102-295, §202(a), substituted “given such term” for “given the term ‘children with disabilities’”.

1990—Subsec. (d)(2). Pub. L. 101-476, §901(g), substituted “children with disabilities” for “handicapped children”.

Pub. L. 101-476, §901(a)(3), substituted reference to the Individuals with Disabilities Education Act for reference to the Education of the Handicapped Act in the original, which for purposes of codification was translated as section 1401 of title 20, thus requiring no change in text.

1989—Subsec. (a)(1). Pub. L. 101-127, §3(a), designated existing provisions as subpar. (A), redesignated subpars. (A) to (D) as cls. (i) to (iv), respectively, added cl. (v), and added subpar. (B).

Subsec. (a)(2)(C). Pub. L. 101-127, §2(2)(A), substituted “working with children with disabilities, with chronically ill children, and with the families of such children,” for “working with handicapped and chronically ill children and their families”.

Subsec. (c). Pub. L. 101-127, §4, designated existing provisions relating to information concerning costs, number of participants, etc., as par. (1)(A) and added pars. (1)(B), (2), and (3).

Subsec. (d)(2). Pub. L. 101-127, §2(2)(B), substituted “‘children with disabilities’ has the meaning given the term ‘handicapped children’ in” for “‘handicapped children’ has the meaning given such term in”.

Subsec. (d)(5). Pub. L. 101-127, §3(b), added par. (5).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of Title 20, Education.

§ 5117d. Authorization of appropriations

There are authorized to be appropriated for the purposes of this subchapter such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989, \$20,000,000 for each of the fiscal years 1990 and 1991, and \$20,000,000 for each of the fiscal years 1992 through 1995. Amounts appropriated under the preceding sentence shall remain available until expended.

(Pub. L. 99-401, title II, §206, Aug. 27, 1986, 100 Stat. 909; Pub. L. 100-403, §1, Aug. 19, 1988, 102 Stat. 1013; Pub. L. 101-127, §5, Oct. 25, 1989, 103 Stat. 771; Pub. L. 102-295, title II, §203, May 28, 1992, 106 Stat. 200.)

AMENDMENTS

1992—Pub. L. 102-295 struck out “and” after “1989,” and inserted before period at end “, and \$20,000,000 for each of the fiscal years 1992 through 1995”.

1989—Pub. L. 101-127 inserted “, and \$20,000,000 for each of the fiscal years 1990 and 1991” after “1989” and substituted “Amounts appropriated under the preceding sentence” for “Such sums”.

1988—Pub. L. 100-403, §1(1), substituted a comma for “and” after “1987”.

Pub. L. 100-403, §1(2), which directed insertion of “, and 1989” before period at end of section, was executed by making insertion at end of first sentence of section as probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5117c of this title.

SUBCHAPTER V—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

CODIFICATION

This subchapter is comprised of title III of the Child Abuse Prevention and Treatment Act, Pub. L. 93-247. Titles I and II of that Act are classified to subchapters I (§ 5101 et seq.) and III (§ 5116 et seq.) of this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5101, 5102, 5103, 5106a, 5106d, 5106e of this title.

§ 5118. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect

(a) Establishment of program

The Secretary may make grants to entities described in subsection (b)(1) of this section for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

- (1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and
- (2) the abuse and neglect of such children.

(b) Minimum qualifications of grantees

(1) In general

The entities referred to in subsection (a) of this section are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

- (A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or
- (B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

(2) Eligible geographic areas

The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

- (A) threatening the well-being of children; and
- (B)(i) contributing to the placement of children in out-of-home care;
- (ii) preventing the reunification of children with their families; or
- (iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

(3) Cooperation with appropriate public and private entities

The Secretary shall not make a grant under subsection (a) of this section unless the agen-

cy involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

(c) Requirement of matching funds

(1) In general

The Secretary shall not make a grant under subsection (a) of this section unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than \$1 for each \$4 of Federal funds provided in such grant.

(2) Determination of amount of non-Federal contribution

Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

(Pub. L. 93-247, title III, § 301, as added Pub. L. 101-645, title VI, § 661(b), Nov. 29, 1990, 104 Stat. 4755.)

CONGRESSIONAL FINDINGS

Section 661(a) of Pub. L. 101-645 provided that: "Congress finds that—

- "(1) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and
- "(2) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5118a, 5118b, 5118c, 5118d of this title.

§ 5118a. Provisions with respect to carrying out purpose of demonstration grants

(a) Joint training of appropriate service personnel

(1) In general

The Secretary shall not make a grant under section 5118(a) of this title unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

(2) Specification of training subjects

The subjects referred to in paragraph (1) are—

(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

(b) Additional authorized activities

In addition to activities authorized in subsection (a) of this section, a grantee under section 5118(a) of this title may expend grant funds for—

(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;

(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

(Pub. L. 93-247, title III, §302, as added Pub. L. 101-645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4757.)

§ 5118b. Additional required agreements

(a) Reports to Secretary

The Secretary shall not make a grant under section 5118(a) of this title unless the agency involved agrees that such agency will—

(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

(A) the incidence of placements of children in out-of-home care;

(B) the reunification of children with their families; and

(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

(b) Evaluation by Secretary

The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 5118(a) of this title in—

(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

(3) facilitating the reunification of children with their families; and

(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

(c) Report to Congress

(1) Preparation of list

Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

(A) rent, utility, and other subsidies;

(B) training; and

(C) for inter-agency coordination, at both the local and State and Federal level.

(2) Contents of list

The list prepared under paragraph (1) shall include a description of—

(A) the appropriate citations relating to the authority for such programs;

(B) entities that are eligible to participate in each such program;

(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

(D) the agencies and divisions administering each such program;

(E) the expiration date of the authority of each such program; and

(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

(3) Report

Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate

committees of Congress a report that contains a description of the activities carried out under this subchapter, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

(A) information describing the localities in which activities are conducted;

(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

(C) information concerning the nature of the joint training conducted with grant funds;

(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

(E) information concerning the impact of programs supported with grant funds under this subchapter on—

(i) the incidence of the placement of children into out-of-home care;

(ii) the reunification of children with their families; and

(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

(d) Restriction on use of grant

The Secretary may not make a grant under section 5118(a) of this title unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

(Pub. L. 93-247, title III, §303, as added Pub. L. 101-645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4757.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5118c of this title.

§ 5118c. Description of intended uses of grant

The Secretary shall not make a grant under section 5118(a) of this title unless—

(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

(2) with respect to the entities with which the agency has made agreements pursuant to section 5118(b)(1) of this title, such entities have assisted the agency in preparing the description required in paragraph (1); and

(3) the description includes a statement of the methods that the agency will utilize in

conducting the evaluations required in section 5118b(a)(2) of this title.

(Pub. L. 93-247, title III, §304, as added Pub. L. 101-645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4759.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5118d of this title.

§ 5118d. Requirement of submission of application

The Secretary shall not make a grant under section 5118(a) of this title unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 5118c of this title, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subchapter.

(Pub. L. 93-247, title III, §305, as added Pub. L. 101-645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4759.)

§ 5118e. Authorization of appropriations

(a) In general

For the purpose of carrying out this subchapter, there are authorized to be appropriated \$12,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(b) Availability of appropriations

Amounts appropriated under subsection (a) of this section shall remain available until expended.

(Pub. L. 93-247, title III, §306, as added Pub. L. 101-645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4760; amended Pub. L. 102-295, title I, §131, May 28, 1992, 106 Stat. 199.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-295 inserted before period at end “, and such sums as may be necessary for each of the fiscal years 1993 through 1995”.

SUBCHAPTER VI—CHILD ABUSE CRIME INFORMATION AND BACKGROUND CHECKS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3759 of this title.

§ 5119. Reporting child abuse crime information

(a) In general

In each State, an authorized criminal justice agency of the State shall report child abuse crime information to, or index child abuse crime information in, the national criminal history background check system. A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions.

(b) Provision of State child abuse crime records through national criminal history background check system

(1) Not later than 180 days after December 20, 1993, the Attorney General shall, subject to availability of appropriations—

(A) investigate the criminal history records system of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line basis through the national criminal history background check system;

(B) in consultation with State officials, establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of criminal history records and other procedures for carrying out this subchapter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of each State timetable that the State—

(A) by not later than the date that is 5 years after December 20, 1993, have in a computerized criminal history file at least 80 percent of the final dispositions that have been rendered in all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain a reporting rate of at least 80 percent for final dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve 100 percent disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) Liaison

An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) Annual summary

(1) The Attorney General shall publish an annual statistical summary of child abuse crimes.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) Annual report

The Attorney General shall, subject to the availability of appropriations, publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal history background check system.

(f) Study of child abuse offenders

(1) Not later than 180 days after December 20, 1993, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State; and

(C) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 2 years after December 20, 1993, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

(Pub. L. 103-209, §2, Dec. 20, 1993, 107 Stat. 2490; Pub. L. 103-322, title XXXII, §320928(b), (h), (i), Sept. 13, 1994, 108 Stat. 2132, 2133.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b)(1)(B), was in the original "this Act", meaning Pub. L. 103-209, Dec. 20, 1993, 107 Stat. 2490, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 5101 of this title and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, §320928(b), inserted at end "A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions."

Subsec. (b)(2)(A). Pub. L. 103-322, §320928(i), substituted "5 years after" for "3 years after".

Subsec. (f)(2). Pub. L. 103-322, §320928(h), substituted "2 years" for "1 year".

GUIDELINES FOR ADOPTION OF SAFEGUARDS BY CARE PROVIDERS AND STATES FOR PROTECTING CHILDREN, THE ELDERLY, OR INDIVIDUALS WITH DISABILITIES FROM ABUSE

Section 320928(g) of Pub. L. 103-322 provided that:

"(1) IN GENERAL.—The Attorney General, in consultation with Federal, State, and local officials, including officials responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations, shall develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

"(2) MATTERS TO BE ADDRESSED.—In developing guidelines under paragraph (1), the Attorney General shall address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs.

"(3) DISSEMINATION.—The Attorney General shall, subject to the availability of appropriations, disseminate the guidelines to State and local officials and to public and private care providers."

§ 5119a. Background checks

(a) In general

(1) A State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

(2) The authorized agency shall access and review State and Federal criminal history records

through the national criminal history background check system and shall make reasonable efforts to respond to the inquiry within 15 business days.

(b) Guidelines

The procedures established under subsection (a) of this section shall require—

(1) that no qualified entity may request a background check of a provider under subsection (a) of this section unless the provider first provides a set of fingerprints and completes and signs a statement that—

(A) contains the name, address, and date of birth appearing on a valid identification document (as defined in section 1028 of title 18) of the provider;

(B) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) notifies the provider that the entity may request a background check under subsection (a) of this section;

(D) notifies the provider of the provider's rights under paragraph (2); and

(E) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides care;

(2) that each provider who is the subject of a background check is entitled—

(A) to obtain a copy of any background check report; and

(B) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency;

(3) that an authorized agency, upon receipt of a background check report lacking disposition data, shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data;

(4) that the authorized agency shall make a determination whether the provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities and shall convey that determination to the qualified entity; and

(5) that any background check under subsection (a) of this section and the results thereof shall be handled in accordance with the requirements of Public Law 92-544.

(c) Regulations

(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this subchapter, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

(d) Liability

A qualified entity shall not be liable in an action for damages solely for failure to conduct a criminal background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity (other than itself) to take action adverse to a provider who was the subject of a background check.

(e) Fees

In the case of a background check pursuant to a State requirement adopted after December 20, 1993, conducted with fingerprints on a person who volunteers with a qualified entity, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints. The States shall establish fee systems that insure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs.

(Pub. L. 103-209, §3, Dec. 20, 1993, 107 Stat. 2491; Pub. L. 103-322, title XXXII, §320928(a)(1), (2), (c), (e), Sept. 13, 1994, 108 Stat. 2131, 2132.)

REFERENCES IN TEXT

Public Law 92-544, referred to in subsec. (b)(5), is Pub. L. 92-544, Oct. 25, 1972, 86 Stat. 1109. Provisions relating to use of funds for the exchange of identification records are contained in section 201 of Pub. L. 92-544, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-322, §320928(a)(1), substituted “the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities” for “an individual's fitness to have responsibility for the safety and well-being of children”.

Subsec. (b)(1)(E). Pub. L. 103-322, §320928(a)(2)(A), substituted “to a person to whom the qualified entity provides care” for “to a child to whom the qualified entity provides child care”.

Subsec. (b)(4). Pub. L. 103-322, §320928(a)(2)(B), substituted “the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities” for “an individual's fitness to have responsibility for the safety and well-being of children”.

Subsec. (d). Pub. L. 103-322, §320928(c), inserted “(other than itself)” after “failure of a qualified entity”.

Subsec. (e). Pub. L. 103-322, §320928(e), substituted “eighteen dollars, respectively, or the actual cost, whichever is less,” for “the actual cost”.

§ 5119b. Funding for improvement of child abuse crime information

(a) Omitted

(b) Additional funding grants for improvement of child abuse crime information

(1) The Attorney General shall, subject to appropriations and with preference to States that, as of December 20, 1993, have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child

abuse cases, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subchapter;

(B) for the improvement of existing computerized criminal history files for the purposes of this subchapter;

(C) to improve accessibility to the national criminal history background check system for the purposes of this subchapter;

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal history background check system for the purposes of this subchapter; and

(E) to assist the State in paying all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of \$20,000,000 for fiscal years 1994, 1995, 1996, and 1997.

(c) Withholding State funds

Effective 1 year after December 20, 1993, the Attorney General may reduce, by up to 10 percent, the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3701 et seq.] that is not in compliance with the requirements of this subchapter.

(Pub. L. 103-209, § 4, Dec. 20, 1993, 107 Stat. 2493; Pub. L. 103-322, title XXXII, § 320928(d), Sept. 13, 1994, 108 Stat. 2132.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (c), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended. Title I of the Act is classified principally to chapter 46 (§ 3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

CODIFICATION

Section is comprised of section 4 of Pub. L. 103-209. Subsec. (a) of section 4 of Pub. L. 103-209 amended section 3759(b) of this title.

AMENDMENTS

1994—Subsec. (b)(1)(E). Pub. L. 103-322, which directed the amendment of subsec. (b) by adding subpar. (E) at the end, was executed by adding subpar. (E) at the end of par. (1) of subsec. (b) to reflect the probable intent of Congress.

AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY THE BRADY HANDGUN VIOLENCE PREVENTION ACT AND THE NATIONAL CHILD PROTECTION ACT OF 1993

For appropriations for amounts authorized in subsec. (b) of this section from the Violent Crime Reduction Trust Fund established by section 14211 of this title, see section 210603(a) of Pub. L. 103-322, set out as a note under section 922 of Title 18, Crimes and Criminal Procedure.

§ 5119c. Definitions

For the purposes of this subchapter—

(1) the term “authorized agency” means a division or office of a State designated by a

State to report, receive, or disseminate information under this subchapter;

(2) the term “child” means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term “child abuse crime” means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term “child abuse crime information” means the following facts concerning a person who has been arrested for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term “care” means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;

(6) the term “identifiable child abuse crime case” means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

(7) the term “individuals with disabilities” means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;

(8) the term “national criminal history background check system” means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(9) the term “provider” means—

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(10) the term “qualified entity” means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services; and

(11) the term “State” means a State, the District of Columbia, the Commonwealth of

Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

(Pub. L. 103-209, § 5, Dec. 20, 1993, 107 Stat. 2493; Pub. L. 103-322, title XXXII, § 320928(a)(3), (j), Sept. 13, 1994, 108 Stat. 2132, 2133.)

AMENDMENTS

1994—Par. (5). Pub. L. 103-322, § 320928(a)(3)(A), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “the term ‘child care’ means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child;”.

Pars. (6), (7). Pub. L. 103-322, § 320928(j)(2), added pars. (6) and (7). Former pars. (6) and (7) redesignated (8) and (9), respectively.

Par. (8). Pub. L. 103-322, § 320928(j)(1), redesignated par. (6) as (8). Former par. (8) redesignated (10).

Pub. L. 103-322, § 320928(a)(3)(B), substituted “care” for “child care” wherever appearing.

Pars. (9) to (11). Pub. L. 103-322, § 320928(j)(1), redesignated pars. (7) to (9) as (9) to (11), respectively.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 68—DISASTER RELIEF

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

- Sec. 5121. Congressional findings and declarations.
- 5122. Definitions.

SUBCHAPTER II—DISASTER PREPAREDNESS ASSISTANCE

- 5131. Federal and State disaster preparedness programs.
 - (a) Utilization of services of other agencies.
 - (b) Technical assistance for the development of plans and programs.
 - (c) Grants to States for development of plans and programs.
 - (d) Grants for improvement, maintenance, and updating of State plans.
- 5132. Disaster warnings.
 - (a) Readiness of Federal agencies to issue warnings to State and local officials.
 - (b) Technical assistance to State and local governments for effective warnings.
 - (c) Warnings to governmental authorities and public endangered by disaster.
 - (d) Agreements with commercial communications systems for use of facilities.

SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

- 5141. Waiver of administrative conditions.
- 5142. Repealed.
- 5143. Coordinating officers.
 - (a) Appointment of Federal coordinating officer.
 - (b) Functions of Federal coordinating officer.
 - (c) State coordinating officer.
- 5144. Emergency support teams.
- 5145, 5146. Repealed.
- 5147. Reimbursement of Federal agencies.
- 5148. Nonliability of Federal Government.

- Sec. 5149. Performance of services.
 - (a) Utilization of services or facilities of State and local governments.
 - (b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies.
- 5150. Use of local firms and individuals.
- 5151. Nondiscrimination in disaster assistance.
 - (a) Regulations for equitable and impartial relief operations.
 - (b) Compliance with regulations as prerequisite to participation by other bodies in relief operations.
- 5152. Use and coordination of relief organizations.
- 5153. Priority to certain applications for public facility and public housing assistance.
 - (a) Priority.
 - (b) Obligation of certain discretionary funds.
- 5154. Insurance.
 - (a) Applicants for replacement of damaged facilities.
 - (b) Maintenance of insurance.
 - (c) State acting as self-insurer.
- 5154a. Prohibited flood disaster assistance.
 - (a) General prohibition.
 - (b) Transfer of property.
 - (c) Omitted.
 - (d) “Flood disaster area” defined.
 - (e) Effective date.
- 5155. Duplication of benefits.
 - (a) General prohibition.
 - (b) Special rules.
 - (c) Recovery of duplicative benefits.
 - (d) Assistance not income.
- 5156. Standards and reviews.
- 5157. Penalties.
 - (a) Misuse of funds.
 - (b) Civil enforcement.
 - (c) Referral to Attorney General.
 - (d) Civil penalty.
- 5158. Availability of materials.
- 5159. Protection of environment.
- 5160. Recovery of assistance.
 - (a) Party liable.
 - (b) Rendering of care.
- 5161. Audits and investigations.
 - (a) In general.
 - (b) Access to records.
 - (c) State and local audits.
- 5162. Advance of non-Federal share.
 - (a) In general.
 - (b) Terms of loans and advances.
 - (c) Regulations.
- 5163. Limitation on use of sliding scales.
- 5164. Rules and regulations.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

- 5170. Procedure for declaration.
- 5170a. General Federal assistance.
- 5170b. Essential assistance.
 - (a) In general.
 - (b) Federal share.
 - (c) Utilization of DOD resources.
- 5170c. Hazard mitigation.
 - (a) In general.
 - (b) Property acquisition and relocation assistance.
- 5171. Federal facilities.
 - (a) Repair, reconstruction, restoration, or replacement of United States facilities.
 - (b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities.
 - (c) Steps for mitigation of hazards.