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CODIFICATION

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

§ 5101. Office on Child Abuse and Neglect

(a) Establishment

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

(b) Purpose

The purpose of the Office established under subsection (a) of this section shall be to execute and coordinate the functions and activities of this subchapter and subchapter III of this chapter. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such

functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

(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; Pub. L. 104–235, title I, § 101, Oct. 3, 1996, 110 Stat. 3064.)

AMENDMENTS

1996—Pub. L. 104–235 amended section generally, substituting provisions relating to Office on Child Abuse and Neglect for provisions relating to National Center on Child Abuse and Neglect.

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 2010 AMENDMENT

Pub. L. 111-341, §1, Dec. 22, 2010, 124 Stat. 3606, provided that: “This Act [amending provisions set out as a note under section 5119a of this title] may be cited as the ‘Criminal History Background Checks Pilot Extension Act of 2010’.”

Pub. L. 111-320, §1, Dec. 20, 2010, 124 Stat. 3459, provided that: “This Act [enacting chapter 110 of this title, amending sections 3796gg, 5102, 5104 to 5106a, 5106c, 5106d, 5106f, 5106g to 5106i, 5111, 5113, 5115, 5116 to 5116b, 5116d to 5116i, 5117aa, 5117aa-21, 5117aa-22, 13925, and 14214 of this title, section 707 of Title 11, Bankruptcy, and section 1435 of Title 20, Education, enacting provisions set out as notes under this section, amending provisions set out as a note under this section, repealing provisions set out as a note under section 670 of this title, and omitting provisions set out as a note under section 10401 of this title] may be cited as the ‘CAPTA Reauthorization Act of 2010’.”

Pub. L. 111-143, §1, Mar. 1, 2010, 124 Stat. 41, provided that: “This Act [amending provisions set out as a note under section 5119a of this title] may be cited as the ‘Criminal History Background Checks Pilot Extension Act of 2009’.”

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-296, §1, July 30, 2008, 122 Stat. 2974, and Pub. L. 110-408, §1, Oct. 13, 2008, 122 Stat. 4301, provided that: “This Act [amending provisions set out as a note under section 5119a of this title] may be cited as the ‘Criminal History Background Checks Pilot Extension Act of 2008’.”

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-36, §1(a), June 25, 2003, 117 Stat. 800, provided that: “This Act [see Tables for classification] may be cited as the ‘Keeping Children and Families Safe Act of 2003’.”

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-251, title II, §221, Oct. 9, 1998, 112 Stat. 1885, provided that: “This subtitle [subtitle B (§§221, 222) of title II of Pub. L. 105-251, amending sections 5119a and 5119b of this title] may be cited as the ‘Volunteers for Children Act’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-235, §1(a), Oct. 3, 1996, 110 Stat. 3063, provided that: “This Act [enacting sections 5106i and 5116 to 5116i of this title, amending this section and sections 5102, 5104 to 5106, 5106a, 5106c to 5106f, 5106g to 5106i, 5111, 5113, 5115, 5117, 10402, 10403, 10409, 10603a, and 13004 of this title, repealing sections 5103, 5106b, 5117 to 5117d, 5118 to 5118e, 5778, and 11481 to 11489 of this title, amending provisions set out as notes under this section and section 670 of this title, and repealing provisions set out as notes under section 5117 of this title] may be cited as the ‘Child Abuse Prevention and Treatment Act Amendments of 1996’.”

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 note under section 1305 of this title.

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 1991 AMENDMENT

Pub. L. 102-236, §1, Dec. 12, 1991, 105 Stat. 1812, provided that: “This Act [amending sections 5117aa to 5117aa-12 and 5117aa-22 of this title and provisions set out as a note under section 623 of Title 29, Labor] may be cited as the ‘Abandoned Infants Assistance Act Amendments of 1991’.”

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-126, §1, Oct. 25, 1989, 103 Stat. 764, 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

Pub. L. 100-294, §1, Apr. 25, 1988, 102 Stat. 102, 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

Pub. L. 99-401, §1, Aug. 27, 1986, 100 Stat. 903, 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’.”

Pub. L. 99-401, title I, §101, Aug. 27, 1986, 100 Stat. 903, 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’.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-457, §1, Oct. 9, 1984, 98 Stat. 1749, 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

Pub. L. 95-266, §1, Apr. 24, 1978, 92 Stat. 205, 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

Pub. L. 93-247, §1(a), formerly §1, Jan. 31, 1974, 88 Stat. 4, 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’.”

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, formerly set out as a note under section 5117 of this title.

Pub. L. 100-505, §1, Oct. 18, 1988, 102 Stat. 2533, provided that: “This Act [enacting subchapter IV-A of this chapter and provisions formerly set out as a note under section 670 of this title] may be cited as the ‘Abandoned Infants Assistance Act of 1988’.”

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

REGULATIONS

Pub. L. 100-294, title IV, §401(a), Apr. 25, 1988, 102 Stat. 126, 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.”

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

Pub. L. 98-457, title I, §127, Oct. 9, 1984, 98 Stat. 1754, 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.”

PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS

Pub. L. 100-294, title I, §106, Apr. 25, 1988, 102 Stat. 119, 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.

ACQUISITION OF STATISTICAL DATA

Pub. L. 99-401, title I, §105, Aug. 27, 1986, 100 Stat. 906, 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.”

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, and amended by Pub. L. 104-235, title I, §100, Oct. 3, 1996, 110 Stat. 3064; Pub. L. 108-36, title I, §101, June 25, 2003, 117 Stat. 801; Pub. L. 111-320, title I, §101, Dec. 20, 2010, 124 Stat. 3459, provided that: “Congress finds that—

“(1) in fiscal year 2008, approximately 772,000 children were found by States to be victims of child abuse and neglect;

“(2)(A) more children suffer neglect than any other form of maltreatment and close to 1/3 of all child maltreatment-related fatalities in fiscal year 2008 were attributed to neglect alone; and

“(B) investigations have determined that approximately 71 percent of children who were victims of maltreatment in fiscal year 2008 suffered neglect, 16 percent suffered physical abuse, 9 percent suffered sexual abuse, [sic] 7 percent suffered psychological maltreatment, 2 percent experienced medical neglect, and 9 percent were victims of other forms of maltreatment;

“(3)(A) child abuse or neglect can result in the death of a child;

“(B) in fiscal year 2008, an estimated 1,740 children were counted by child protection services to have died as a result of abuse or neglect; and

“(C) in fiscal year 2008, children younger than 1 year old comprised 45 percent of child maltreatment fatalities and 72 percent of child maltreatment fatalities were younger than 4 years of age;

“(4)(A) many of these children and their families fail to receive adequate protection and treatment; and

“(B) approximately 37 percent of victims of child abuse did not receive post-investigation services in fiscal year 2008;

“(5) African-American children, American Indian children, Alaska Native children, and children of multiple races and ethnicities experience the highest rates of child abuse or neglect;

“(6) the problem of child abuse and neglect requires a comprehensive approach that—

“(A) integrates the work of social service, legal, health, mental health, domestic violence services, education, and substance abuse agencies and community-based 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, assessment, investigation, and treatment at the neighborhood level;

“(D) recognizes the need for properly trained staff with the qualifications needed, to carry out their child protection duties; and

“(E) recognizes the diversity of ethnic, cultural, and religious beliefs and traditions that may impact child rearing patterns, while not allowing the differences in those beliefs and traditions to enable abuse or neglect;

“(7) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of thousands of children and results in a cost to the Nation of billions of dollars in tangible expenditures, as well as significant intangible costs;

“(8) all elements of American society have a shared responsibility in responding to child abuse and neglect;

“(9) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

“(10) national policy should strengthen families to prevent child abuse and neglect, provide support for needed services to prevent the unnecessary removal of children from families, and promote the reunification of families where appropriate;

“(11) 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, safety, self-respect, and dignity of the child;

“(12) because both child maltreatment and domestic violence occur in up to 60 percent of the families in which either is present, States and communities should adopt assessments and intervention procedures aimed at enhancing the safety both of children and victims of domestic violence;

“(13) 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;

“(14) the Federal Government should assist States and communities with the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy; and

“(15) the Federal Government should provide leadership and assist communities in their child and family protection efforts by—

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

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

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

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

“(E) helping communities to carry out their child and family 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.”

DEFINITIONS

Pub. L. 93-247, § 3, as added by Pub. L. 111-320, title I, § 142(a), Dec. 20, 2010, 124 Stat. 3482, provided that: “In this Act [see Short Title note above]—

“(1) 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;

“(2) the term ‘child abuse and neglect’ means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;

“(3) the term ‘child with a disability’ means a child with a disability as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), or an infant or toddler with a disability as defined in section 632 of such Act (20 U.S.C. 1432);

“(4) the term ‘Governor’ means the chief executive officer of a State;

“(5) the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);

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

“(7) except as provided in section 106(f) [42 U.S.C. 5106a(f)], the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

“(8) the term ‘unaccompanied homeless youth’ means an individual who is described in paragraphs (2) and (6) of section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).”

§ 5102. Advisory board on child abuse and neglect

(a) Appointment

The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

(b) Solicitation of nominations

The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a) of this section.

(c) Composition

In establishing the board under subsection (a) of this section, the Secretary shall appoint members from the general public 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—

(1) law (including the judiciary);

(2) psychology (including child development);

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

(4) health care providers (including pediatricians);

(5) State and local government;

(6) organizations providing services to disabled persons;

(7) organizations providing services to adolescents;

(8) teachers;

(9) parent self-help organizations;

(10) parents' groups;

(11) voluntary groups;

(12) family rights groups;

(13) children's rights advocates; and

(14) Indian tribes or tribal organizations.

(d) Vacancies

Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

(e) Election of officers

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

(f) Duties

Not later than 1 year after the establishment of the board under subsection (a) of this section, the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

(1) recommendations on coordinating Federal, State, tribal, and local child abuse and