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Human Services Advocacy Toolkit

CHILD WELFARE MANDATES

Federal mandates

- Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272, 42 U.S.C. §608, 620-628, 670-676) amends the Social Security Act to provide fiscal incentives to states to reduce the unnecessary placement of children in foster care and to ensure periodic review of the cases of children in placement. The amendments require that before a state may receive federal reimbursement for a child in foster care:
 - A judge finds that the state has made "reasonable efforts" to prevent placement of the child or to reunite the child with his or her family; and
 - The state must develop a written case plan for the child; and
 - The state must ensure that the case is reviewed every six months by a court or administrative body with a full judicial review within 18 months of the child's placement.
- Adoption and Safe Families Act of 1997 (ASFA), Public Law 105-89, amends Title IV-B and Title IV-E of the Social Security Act. ASFA establishes the goals for children in the child welfare system are safety, permanency, and well-being. The law intends to make the child welfare system more responsive to the multiple and frequently complex needs of children and their families and affirms the need to forge linkages between the child welfare system, the courts, and other support systems. The law provides renewed impetus to dismantling the barriers to permanence existing for children in placement and the need to achieve permanency for these children.

Key principles embodied in ASFA are:

- The child's safety and well being is paramount and the foundation for all decisions.
 - Substitute care is a temporary setting. The law provides for an expedited process to find a permanent home for children who cannot safely return home.
 - Permanency planning for children begins as soon as the child enters substitute care. From the time a child enters placement, the county agency must be diligent in finding a permanent family for the child.
 - The practice of concurrent planning is encouraged by ASFA to facilitate the timely considerations of all permanency options for the child.
 - Achieving permanency for children requires timely decisions from all parts of the child serving system.
 - Innovative approaches are needed to produce change. The law envisions real change in the child welfare programs.
- Child and Family Service Reviews (CFSR) were created in 1994 through amendments to the Social Security Act. The amendments authorize the Department of Health and Human Services to review state child and family service programs in order to assure compliance with the State plan requirements in Titles IV-B and IV-E of the Social Security Act. The reviews cover child protective services, foster care, adoption, family preservation, family support, and independent living. The reviews are designed to help states improve child welfare services and the outcomes for families and children who receive services by identifying strengths and needs within state programs, and areas where technical assistance can lead to program improvements. The reviews examine outcomes for children and families in three areas: safety, permanency, and child and

family well-being. Within these three areas, seven outcomes are assessed through statewide data and reviews of cases, as follows:

- Children are first and foremost protected from abuse and neglect.
 - Children are safely maintained in their own homes whenever possible and appropriate.
 - Children have permanency and stability in their living situations.
 - The continuity of family relationships and connections will be preserved for children.
 - Families have enhanced capacity to provide for their children's needs.
 - Children receive appropriate services to meet their educational needs.
 - Children receive adequate services to meet their physical and mental health needs.
- Pennsylvania Program Improvement Plan (PIP) has been implemented to correct areas of non-conformity in outcomes and systemic factors pursuant to the Child and Family Service Review. The PIP focuses directly on the achievement of positive outcomes for children and families and establishes 20 different goals to improve performance on CFSR-related issues. The initiative consists of five objectives: defining standards; providing training on the defined standards and how to achieve them; providing tools and supports to assist them with that achievement; and monitoring the achievement and actual implementation. The process which translates the statewide initiatives into county actions is institutionalized in the Needs-Based Plan and Budget process.
 - Indian Child Welfare Act (ICWA), Public Law 95-608, states “that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.” The law creates the following standards for implementation:
 - An Indian child, any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe falls within the policy.
 - An adoptive placement of an Indian child under State law must demonstrate a preference to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.
 - In any foster or pre-adoptive placement of an Indian child, a preference shall be given, to a placement with: (1) a member of the Indian child's extended family; (2) a foster home licensed, approved, or specified by the Indian child's tribe; (3) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (4) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
 - Multiethnic Placement Act was passed by Congress in to decrease the length of time that children wait to be adopted; to prevent discrimination in the placement of children based on race, color, or national origin and to facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs. Congress further strengthened the enforcement of these anti-discrimination provisions when it passed the Interethnic Adoption Provisions in 1996. Administration for Children and Families Information Memorandum reinforced the act stating that "Every child, especially one who is languishing in foster care deserves a loving family. Discriminating against these children, or the families that wish to foster or adopt them, on the basis of race, color or national origin, is illegal. Equally important, however, is that such discrimination wrongly denies these vulnerable children the opportunity to enjoy the immeasurable benefits associated with being part of a loving family."
 - The Domestic Relations Section in conjunction with state regulations requires an assessment for a dependent or delinquent child placed for care or treatment outside of the home to determine the family's cost of that care or treatment. Child-specific income such as Social Security income is also used to defray the cost of care to the county.

State mandates

- The Child Protective Services Law (CPSL), enacted in 1975, notes that abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment. The law states several purposes:
 - Establish in each county protective services for the purpose of investigating reports swiftly and competently.
 - Provide protection for children from further abuse.
 - Provide rehabilitative services for children and parents to ensure the child's well-being.
 - Preserve, stabilize and protect the integrity of family life whenever appropriate or provide another alternative permanent family when the unity of the family cannot be maintained.
 - Encourage more complete reporting of suspected child abuse.
 - Involve law enforcement agencies in responding to child abuse.
 - Establish procedures to assess risk of harm to a child in order to respond adequately to meet the needs of the family and child who may be at risk, and prioritize the response and services to children most at risk.
- The Juvenile Act was enacted in 1972 and sets out five purposes:
 - Preserve the unity of the family when possible, or provide another permanent family when family unity cannot be maintained.
 - Provide for the care, protection, safety and wholesome mental and physical development of children coming within its provisions.
 - Consistent with the protection of the public interest, to provide for children committing delinquent acts, programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable children to become responsible and productive members of the community.
 - Achieve these purposes in a family environment whenever possible, separating the child from parents only when necessary for his/her welfare, safety or health, or in the interests of public safety.
 - Provide a means through which the Act's provisions are executed and enforced, and in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced.
- Protection from Abuse Act (23 Pa. C.S.A §6101-6117) permits a family or household member to obtain a court order to protect a child or family or other household member who is the victim of abuse. Under this Act, the court has wide ranging powers of relief, including ordering the abusive member of the family or household out of the house for up to one year.
- Adoption Act establishes proceedings for voluntary relinquishment, involuntary termination and adoption. It details mechanisms to provide a new, permanent, legal family for children whose birth parents are unable or unwilling to fulfill this responsibility. Before a child can be adopted, the relationship between the child and his/her parents must be legally severed permanently. This can be accomplished voluntarily or involuntarily. When it is done, the child is "legally free" for adoption. Finalization of an adoption then creates a new parent/child relationship. The adoptive parents and child assume rights and duties equivalent to those of birth parents and a child.
- Newborn Protection Act (Act 201 of 2002) permits a parent to abdicate their parental rights and leave a newborn at a hospital without fear of criminal prosecution when the child has not been a victim of suspected child abuse.
- Crimes Code is enacted to preserve the public order by defining an offense against the public and imposing a penalty for its violation. These offenses may be prosecuted in a criminal proceeding before the court.

- Regulations are rules or other directives issued by administrative agencies, such as the Department of Public Welfare. They bind each county in its administration and provision of services and describe implementation of legal requirements. The regulations dictating child welfare practice include:
 - Chapter 3130-Administration of County Children and Youth Social Service Programs
 - Chapter 3350-Adoption Services
 - Chapter 3490-Child Protective Services–Child Abuse
 - Chapter 3700-Foster Family Care Agency
 - Chapter 3800-Child Residential and Day Treatment Facilities

- Bulletins are issued by administrative agencies to implement legal requirements or present statements of policy and guidelines which are used, for the most part, until regulations are published as final rulemaking.