

Public Law 95-266
95th Congress

An Act

To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

Apr. 24, 1978

[H.R. 6693]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

Child Abuse
Prevention and
Treatment and
Adoption Reform
Act of 1978.
42 USC 5101
note.

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION
AND TREATMENT ACT

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) (hereinafter in this title referred to as "the Act") is amended by—

(1) (A) striking out "and publish" and inserting in lieu thereof "publish, and disseminate" in clause (1) of subsection (b);

(B) striking out "and publish" and inserting in lieu thereof a comma and "publish, and disseminate" in clause (3) of subsection (b);

(C) striking out "and" after clause (5) of subsection (b);

(D) striking out the period at the end of clause (6) of subsection (b) and inserting in lieu thereof a semicolon and "and"; and

(E) adding after clause (6) of subsection (b) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), 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 the date of enactment of this clause.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities."

(2) inserting at the end of subsection (c) the following new sentences: "Grants may be made under subsection (b) (5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant."; and

(3) adding after subsection (c) the following new subsection:

"(d) 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 Act."

Plan, submittal to
Advisory Board
on Child Abuse
and Neglect.
42 USC 5105.

Research
priorities
for grants or
contracts.
Publication in
Federal Register.
Review.

DEFINITION

- SEC. 102. Section 3 of the Act (42 U.S.C. 5102) is amended by—
- (1) inserting “or exploitation” after “sexual abuse”; and
 - (2) inserting a comma and “or the age specified by the child protection law of the State in question,” after “eighteen”.

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

- SEC. 103. Section 4 of the Act (42 U.S.C. 5103) is amended by—

- (1) amending subsection (a) by—
 - (A) inserting “or service” after “demonstration” in the first sentence;
 - (B) striking out “the development and establishment of” in clause (1); and
 - (C) striking out the last sentence of such subsection;
- (2) amending subsection (b) by—
 - (A) striking out in paragraph (1) “Of the sums” and all that follows through “grants” and inserting in lieu thereof “The Secretary, through the Center, is authorized to make grants”, and striking out “for the payment of reasonable and necessary expenses”; and
 - (B) inserting in paragraph (2) immediately below clause (J) the following new sentence: “If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.”; and
- (3) amending the heading for such section to read as follows:

“DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS”.

AUTHORIZATION OF APPROPRIATIONS, EARMARKING, AND SEXUAL ABUSE CENTERS

- SEC. 104. Section 5 of the Act (42 U.S.C. 5104) is amended by—

- (1) striking out “and” after “1975,” and striking out the period at the end thereof and inserting in lieu thereof a comma and the following: “\$25,000,000 for the fiscal year ending September 30, 1978, \$27,500,000 for the fiscal year ending September 30, 1979, and \$30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (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 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978,

42 USC 5101.

42 USC 5103.

and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively.”; and

42 USC 5103.

(2) inserting “(a)” after “SEC. 5.” and adding at the end thereof the following new subsection:

“(b)(1) There are authorized to be appropriated \$3,000,000 for the fiscal year ending September 30, 1978, \$3,500,000 for the fiscal year ending September 30, 1979, and \$4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, and personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.

42 USC 5101.

“(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).

“(3) As used in this subsection, the term—

Definitions.

“(A) ‘sexual abuse’ includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children 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; and

“(B) ‘child’ or ‘children’ means any individual who has not attained the age of eighteen.

“(4) (A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

“(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.”.

ADVISORY BOARD

SEC. 105. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and “and not less than three members from the general public with experience or expertise in the field of child abuse and neglect”;

(2) striking out “administered” both places it appears in the second sentence in subsection (a) and inserting in lieu thereof “planned, administered,”; and

Plan, submittal
to President
and Congress.
42 USC 5101.

Compensation.

(3) striking out subsection (b) and subsection (c) and inserting in lieu thereof the following new subsections:

"(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

"(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including travel-time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently."

TITLE II—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

42 USC 5111.

SEC. 201. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, 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 be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of 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, Education, and Welfare 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.

MODEL ADOPTION LEGISLATION AND PROCEDURES

Publication in
Federal Register.
42 USC 5112.

SEC. 202. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on

the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b) (1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

Panel.
Appointment.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

Termination.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

Compensation.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

SEC. 203. (a) The Secretary shall establish in the Department of Health, Education, and Welfare 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 title. The Secretary shall make available such consultant services and personnel, together with

42 USC 5113.

appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract 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;

(2) 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;

(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 parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) 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, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

Report to
congressional
committees.
42 USC 5114.

SEC. 204. 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 the date of enactment of this Act) 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 stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title. 42 USC 5115.

Approved April 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-609 (Comm. on Education and Labor).

SENATE REPORT No. 95-167 accompanying S. 961 (Comm. on Human Resources).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Sept. 26, considered and passed House.

Oct. 27, considered and passed Senate, amended, in lieu of S. 961.

Vol. 124 (1978): Apr. 10, House agreed to Senate amendments with amendments.

Apr. 12, Senate concurred in House amendments.