

Public Law 98-457
98th Congress

An Act

To extend and improve provisions of laws relating to child abuse and neglect and adoption, and for other purposes.

Oct. 9, 1984
[H.R. 1904]

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 Amendments of 1984".

Child Abuse
Amendments of
1984.
42 USC 5101
note.

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION
AND TREATMENT ACT

PART A—PROGRAM IMPROVEMENTS

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. (a) Section 2(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(a)) (hereinafter in this title referred to as "the Act") is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Clauses (6) and (7) of section 2(b) of the Act are amended to read as follows:

"(6) study and investigate the national incidence of child abuse and neglect and make findings about any relationship between nonpayment of child support and between various other factors and child abuse and neglect, and the extent to which incidents of child abuse and neglect are increasing in number and severity, and, within two years after the date of the enactment of the Child Abuse Amendments of 1984, submit such findings to the appropriate Committees of the Congress together with such recommendations for administrative and legislative changes as are appropriate; and

Study.

"(7) in consultation with the Advisory Board on Child Abuse and Neglect, annually prepare reports on efforts during the preceding two-year period to bring about coordination of the goals, objectives, and activities of agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and, not later than March 1, 1985, and March 1 of each second year thereafter, submit such a report to the appropriate Committees of the Congress."

Reports.

(c) Section 2(c) of the Act is amended by striking out "The Secretary may carry out his functions under subsection (b) of this section" and inserting in lieu thereof "The functions of the Secretary under subsection (b) of this section may be carried out".

(d) Section 2 of the Act is further amended by inserting after subsection (d) the following new subsection:

"(e) No funds appropriated under this Act for any grant or contract may be used for any purpose other than that for which such funds were specifically authorized."

DEFINITIONS

Post, p. 1752.

SEC. 102. Section 3 of the Act is amended—

(1) by inserting “(including any employee of a residential facility or any staff person providing out-of-home care)” after “by a person”;

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clause:

“(2)(A) the term ‘sexual abuse’ includes—

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

“(ii) the rape, molestation, prostitution, or other such form of sexual exploitation of children, or incest with 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) for the purpose of this clause, the term ‘child’ or ‘children’ means any individual who has not or individuals who have not attained the age of eighteen.”.

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

Grants.
42 USC 5103.

SEC. 103. (a) Section 4(b)(2)(E) of the Act is amended by striking out “his” and inserting in lieu thereof “and the child’s”.

(b) Section 4(b)(3) of the Act is amended to read as follows:

Waiver.

“(3)(A) Subject to subparagraph (B) of this paragraph, any State which on the date of enactment of the Child Abuse Amendments of 1984 does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

“(i) 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

“(ii) 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 any such requirement.

“(B) No waiver under subparagraph (A) may apply to any requirement under paragraph (2)(K) of this subsection.”.

Ante, p. 1749.

(c) Section 4 of the Act is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

“(e) The Secretary, in consultation with the Advisory Board on Child Abuse and Neglect, shall ensure that a proportionate share of assistance under this Act is available for activities related to the prevention of child abuse and neglect.”.

Post, p. 1752.

AUTHORIZATION OF APPROPRIATIONS

- SEC. 104. (a) Section 5(a) of the Act is amended—
- (1) by striking out “(a)” after “SEC. 5.”; 42 USC 5104.
- (2) by inserting after the first sentence the following new sentence: “There are hereby further authorized to be appropriated for the purposes of this Act \$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
- (3) in the second sentence by striking out “this section” and all that follows through the end of such subsection, and inserting in lieu thereof “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 4(b) of this Act (relating to State grants), (B) not less than \$11,000,000 shall be available in each fiscal year to carry out sections 4(a) (relating to demonstration or service projects), 2(b)(1) and 2(b)(3) (relating to information dissemination), 2(b)(5) (relating to research), and 4(c)(2) (relating to training, technical assistance, and information dissemination) of this Act, 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, (C) \$5,000,000 shall be available in each such year for grants and contracts under section 4(a) 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 4(c)(1) of this Act. 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.” 42 USC 5103.
- (b) Section 5(b) of the Act is repealed. 42 USC 5101.
Post, p. 1753.

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

- SEC. 105. (a) The first sentence of section 6(a) of the Act is amended by striking out “including” and all that follows thereafter through “Administration.” 42 USC 5105.
- (b) Section 6(a) of the Act is further amended by inserting at the end thereof the following sentence: “The Advisory Board may be available, at the Secretary’s request, to assist the Secretary in coordinating adoption-related activities of the Federal Government.”
- (c)(1) Section 6(b) of the Act is repealed.
- (2) Subsection (c) of section 6 of the Act is redesignated as subsection (b).

COORDINATION

- SEC. 106. Section 7 of the Act is amended by striking out “between” and inserting in lieu thereof “among”. 42 USC 5106.

PART B—SERVICES AND TREATMENT FOR DISABLED INFANTS

NEW DEFINITION

42 USC 5102.

SEC. 121. Section 3 of the Act is further amended—

(1) by striking out “this Act the term ‘child abuse and neglect’” and inserting in lieu thereof the following: “This Act—
“(1) the term ‘child abuse and neglect’”;

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word “and”; and

(3) by adding after clause (2) (as added by section 102(3) of this Act) the following new clause:

“(3) 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.”.

NEW BASIC STATE GRANT REQUIREMENT

SEC. 122. Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)) is amended—

(1) by striking out “and” at the end of clause (I);

(2) by striking out the period at the end of clause (J) and inserting in lieu thereof a semicolon and the word “and”; and

(3) by inserting after clause (J) the following new clause:

“(K) within one year after the date of the enactment of the Child Abuse Amendments of 1984, 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 (i) coordination and consultation with individuals designated by and within appropriate health-care facilities, (ii) 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 (iii) 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

Ante, p. 1749.

prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.”

ADDITIONAL STATE GRANTS AND ASSISTANCE FOR TRAINING, TECHNICAL ASSISTANCE, AND CLEARINGHOUSE ACTIVITIES

SEC. 123. (a) Section 4 of the Act is further amended by—

42 USC 5103.

(1) redesignating subsection (c) as subsection (d), subsection (d) as subsection (e), and subsection (e) as subsection (f); and

(2) inserting after subsection (b) the following new subsection:

“(c)(1) The Secretary is authorized to make additional grants to the States for the purpose of developing, establishing, and operating or implementing—

Public information.

“(A) the procedures or programs required under clause (K) of subsection (b)(2) of this section;

Ante, p. 1752.

“(B) information and education programs or training programs for the purpose of improving the provision of services to disabled infants with life-threatening conditions for (i) 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 (ii) the parents of such infants; and

“(C) programs to help in obtaining or coordinating necessary services, including existing social and health services and financial assistance for families with disabled infants with life-threatening conditions, and those services necessary to facilitate adoptive placement of such infants who have been relinquished for adoption.

“(2)(A) The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for (i) training and technical assistance programs to assist States in developing, establishing, and operating or implementing programs and procedures meeting the requirements of clause (K) of subsection (b)(2) of this section; and (ii) 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 for disabled infants with life-threatening conditions (including 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 seeking to coordinate the availability of appropriate regional education resources for health-care personnel).

Contracts with U.S.

“(B) Not more than \$1,000,000 of the funds appropriated for any fiscal year under section 5 of this Act may be used to carry out this paragraph.

42 USC 5104.

“(C) Not later than 210 days after the date of the enactment of the Child Abuse Amendments of 1984, the Secretary shall have the capability of providing and begin to provide the training and technical assistance described in subparagraph (A) of this paragraph.”

Ante, p. 1749.

(b) Section 4 of the Act is further amended by adding after paragraph (3) the following new paragraph:

42 USC 5103.

“(4) Programs or projects related to child abuse and neglect assisted under part B of title IV of the Social Security Act shall

42 USC 620.

comply with the requirements set forth in clauses (B), (C), (E), (F), and (K) of paragraph (2).”

REGULATIONS AND GUIDELINES

42 USC 5103
note.

SEC. 124. (a)(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this part referred to as the “Secretary”) shall publish proposed regulations to implement the requirements of section 4(b)(2)(K) of the Act (as added by section 122(3) of this Act).

Ante, p. 1752.

(2) Not later than 180 days after the date of the enactment of this Act and after completion of a process of not less than 60 days for notice and opportunity for public comment, the Secretary shall publish final regulations under this subsection.

Ante, p. 1752.

(b)(1) Not later than 60 days after the date of the enactment of this Act, the Secretary shall publish 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 clause (3) of section 3 of the Act (as added by section 121(3) of this Act)) from such infants, and offering counsel and review in cases involving disabled infants with life-threatening conditions.

(2) Not later than 180 days after the date of the enactment of this Act and after completion of a period of not less than 60 days for notice and opportunity for public comment, the Secretary shall publish the model guidelines.

REPORT ON FINANCIAL RESOURCES

Study.

42 USC 1305.

SEC. 125. The Secretary shall conduct a study to determine the most effective means of providing Federal financial support, other than the use of funds provided through the Social Security Act, for the provision of medical treatment, general care, and appropriate social services for disabled infants with life-threatening conditions. Not later than 270 days after the date of the enactment of this Act, the Secretary shall report the results of the study to the appropriate Committees of the Congress and shall include in the report such recommendations for legislation to provide such financial support as the Secretary considers appropriate.

IMPLEMENTATION REPORT

42 USC 5103
note.

SEC. 126. Not later than October 1, 1987, the Secretary shall submit to the appropriate Committees of the Congress a detailed report on the implementation and the effects of the provisions of this part and the amendments made by it.

STATUTORY CONSTRUCTION

42 USC 5101
note.

29 USC 794.

SEC. 127. (a) No provision of this Act or any amendment made by this Act is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973.

(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 med-

ical 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.

Provisions held invalid.

EFFECTIVE DATES

SEC. 128. (a) Except as provided in subsection (b), the provisions of this part or any amendment made by this part shall be effective on the date of the enactment of this Act.

42 USC 5102 note.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 122 and 123(b) of this Act shall become effective one year after the date of such enactment.

(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) for the purpose of grants under section 4(c)(1) of the Act (as added by section 123(a) of this Act), 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.

Waiver.

Ante, p. 1753.

Ante, p. 1752.

TITLE II—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. (a) The first sentence of section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) (hereinafter in this title referred to as "the Act") is amended—

(1) by inserting "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" after "finds that"; and

(2) by inserting "have medically indicated treatment withheld from them, nor" after "should not".

(b) The second sentence of section 201 of the Act is amended—

(1) by inserting a comma and "including disabled infants with life-threatening conditions," after "special needs"; and

(2) by amending clause (2) to read as follows:

"(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) coordinate with other Federal departments and agencies, including the Bureau of the Census, to provide for a national adoption and foster care information data-gathering and analysis system; and

“(C) maintain a national adoption exchange to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.”

MODEL ADOPTION LEGISLATION AND PROCEDURES

42 USC 5112.

SEC. 202. (a) Section 202(a) of the Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”.

(b) Section 202(c) of the Act is amended by inserting at the end thereof the following new sentence: “The Secretary shall coordinate efforts to improve State legislation with national, State, and local child and family services organizations, including organizations representative of minorities and adoptive families.”

(c) Section 202 of the Act is further amended by inserting at the end thereof the following new subsection:

“(d) The Secretary shall review all model adoption legislation and procedures published under this section and propose such changes as are considered appropriate to facilitate adoption opportunities for disabled infants with life-threatening conditions.”

INFORMATION AND SERVICES

42 USC 5113.

SEC. 203. (a) Section 203(a) of the Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”.

(b)(1) Section 203(a) of the Act is further amended by inserting before the period at the end thereof a comma and “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”.

(c)(1) Section 203(b) of the Act is amended by striking out in the matter preceding clause (1) “subsection (a) of this section” and inserting in lieu thereof “this title”.

(2) Section 203(b)(1) of the Act is amended to read as follows:

“(1) 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;”

(3) Section 203(b) of the Act is further amended—

(A) by striking out “parent groups” in clause (4) and inserting in lieu thereof “adoptive family groups and minority groups”;

(B) by striking out “and” at the end of clause (4);

(C) by redesignating clause (5) as clause (7) and by inserting immediately after clause (4) the following new clauses:

“(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 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; and”;

(D) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services" in clause (7) (as redesignated by clause (C) of this paragraph).

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. Section 205 of the Act is amended by striking out "and" after "1978," and by inserting a comma and "and \$5,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987," after "fiscal years".

42 USC 5115.

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

Family Violence
Prevention and
Services Act.

SHORT TITLE

SEC. 301. This title may be cited as the "Family Violence Prevention and Services Act".

42 USC 10401
note.

DECLARATION OF PURPOSE

SEC. 302. It is the purpose of this title to—

42 USC 10401.

(1) demonstrate the effectiveness of assisting States in efforts to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and

(2) provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies), nonprofit private organizations, and other persons seeking such assistance.

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make demonstration grants to States.

42 USC 10402.

(2) No demonstration grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in demonstration grants to local public agencies and nonprofit private organizations (including religious and charitable organizations, and voluntary associations) for programs and projects within such State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents in order to prevent future violent incidents;

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that—

(i) not more than 5 percent of such funds will be used for State administrative costs; and

(ii) in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, par-

ticularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents, and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims;

(C) set forth procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between urban and rural areas within such State;

(D) specify the State agency to be designated as responsible for the administration of programs and activities relating to family violence which are carried out by the State under this title and for coordination of related programs within the State;

(E) provide assurances that procedures will be developed to assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under this title and provide assurances that the address or location of any shelter-facility assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(F) provide assurances that, within one year after receipt of funds under this subsection, the State will, provide assurances to the Secretary that the State has or has under consideration a procedure for the eviction of an abusing spouse from a shared residence; and

(G) meet such requirements as the Secretary reasonably determines are necessary to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after opportunity for correction of any deficiencies.

Indians.

(b)(1) The Secretary is authorized to make demonstration grants to Indian tribes and tribal organizations for projects designed to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

(2) No demonstration grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (C) (with respect only to involving knowledgeable individuals and organizations), (D), and (E) of subsection (a)(2).

(c) No demonstration grant may be made under this section in any fiscal year to any single entity (other than to a State) for an amount in excess of \$50,000, and the total amount of such grants to any such single entity may not exceed \$150,000. A single entity may not be awarded demonstration grants under this section for a total period in excess of three fiscal years.

(d) No funds provided through demonstration grants made under this section may be used as direct payment to any victim of family violence or to any dependent of such victim.

(e) No income eligibility standard may be imposed upon individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out this title.

(f) No demonstration grant may be made under this section to any entity other than a State unless the entity provides for the following local share as a proportion of the total amount of funds provided under this title to the project involved: 35 percent in the first year such project receives a grant under this title, 55 percent in the second such year, and 65 percent in the third such year. Except in the case of a public entity, not less than 50 percent of the local share of such agency or organization shall be raised from private sources. The local share required under this subsection may be in cash or in-kind. The local share may not include any Federal funds provided under any authority other than this title.

(g) The Secretary shall assure that not less than 60 percent of the funds distributed under subsection (a) or (b) shall be distributed to entities for the purpose of providing immediate shelter and related assistance to victims of family violence and their dependents.

ALLOTMENT OF FUNDS

SEC. 304. (a) From the sums appropriated under section 310 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under section 303(a) an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

42 USC 10403.

(1) each State shall be allotted not less than whichever is the greater of the following amounts: one-half of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made, or \$50,000; and

(2) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made.

For the purpose of the exception contained in clause (1) of the preceding sentence only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) For the purpose of this section, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent census data available to the Secretary, and the Secretary shall use for such purpose, if available, the annual interim current census data produced by the Secretary of Commerce pursuant to section 181 of title 13, United States Code.

(c) If the sums appropriated under section 310 for any fiscal year for grants to States authorized under section 303(a) are not sufficient to pay in full the total amounts which all States are entitled to receive under such section for such fiscal year, then the maximum amounts which all States are entitled to receive under such section for such fiscal year shall be ratably reduced. In the event that additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 310, the amount allotted to a State has not been made available to such State in grants under section 303(a) because of the failure of such State to meet the

requirements for a grant, then the Secretary shall reallocate such amount to States which meet such requirements.

(2) Funds made available by the Secretary through reallocation under paragraph (1) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallocation.

SECRETARIAL RESPONSIBILITIES

42 USC 10404.

SEC. 305. (a) The Secretary shall appoint an employee of the Department of Health and Human Services to carry out the provisions of this title. The individual appointed under this subsection shall, prior to such appointment, have had expertise in the field of family violence prevention and services.

(b) The Secretary shall—

(1) coordinate all programs within the Department of Health and Human Services, and seek to coordinate all other Federal programs, which involve the prevention of incidents of family violence and the provision of assistance for victims and potential victims of family violence and their dependents, and ensure that such activities as they relate to elderly persons are coordinated with the Administration on Aging and the National Institute on Aging within the Department of Health and Human Services;

(2)(A) provide for research into the causes of family violence, and into the prevention, identification, and treatment thereof (such as research into (i) the effectiveness of reducing repeated incidents of family violence through a variety of sentencing alternatives, such as incarceration, fines, and counseling programs, individually or in combination, and through the use of civil protection orders removing the abuser from the family household, and (ii) the necessity and impact of a mandatory reporting requirement relating to incidents of family violence, particularly abuse of elderly persons), and (B) make a complete study and investigation (in consultation with the National Institute on Aging) of the national incidence of abuse, neglect, and exploitation of elderly persons, including a determination of the extent to which incidents of such abuse, neglect, and exploitation are increasing in number or severity; and

(3) provide for the training of personnel and provide technical assistance in the conduct of programs for the prevention and treatment of family violence.

Study.

EVALUATION

Report.
42 USC 10405.

SEC. 306. Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, the Secretary shall review, evaluate, and report to the appropriate Committees of the Congress, as to the effectiveness of the programs administered and operated pursuant to this title, particularly in relation to repeated incidents of family violence. Such report shall also include a summary of the assurances provided to the Secretary under section 303(a)(2)(F).

DISCRIMINATION PROHIBITED

SEC. 307. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

42 USC 10406.

42 USC 6101

note.

29 USC 794.

20 USC 1681.

42 USC 2000d.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Nothing in this title shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal operation of that particular program or activity. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This paragraph shall not be construed as affecting any other legal remedy.

42 USC 2000d-1.

42 USC 2000d-2.

(b) Whenever the Secretary finds that a State or other entity that has received financial assistance under this title has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request such officer to secure compliance. If, within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, sections 504 and 505 of the Rehabilitation Act of 1973, or title IX of the Education Amendments of 1972, as may be applicable, or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

42 USC 2000d.

42 USC 6101

note.

29 USC 794,

794a.

20 USC 1681.

Courts, U.S.

NATIONAL CLEARINGHOUSE ON FAMILY VIOLENCE PREVENTION

SEC. 308. (a) The Secretary shall operate a national information and research clearinghouse on the prevention of family violence (including the abuse of elderly persons) in order to—

Public

information.

42 USC 10407.

(1) collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and

prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance to victims of family violence and their dependents; and

(2) provide information about alternative sources of assistance available with respect to the prevention of incidents of family violence and the provision of immediate shelter and related assistance to victims of family violence and their dependents.

(b) The Secretary shall ensure that the activities of the national information and research clearinghouse operated under subsection (a) are coordinated with the information clearinghouse maintained by the National Center on Child Abuse and Neglect under section 2 of the Child Abuse Prevention and Treatment Act.

42 USC 5101.

DEFINITIONS

42 USC 10408.

SEC. 309. As used in this title:

(1) The term "family violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

(2) The terms "Indian tribe" and "tribal organization" have the same meanings given such terms in subsections (b) and (c), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

25 USC 450b.

(3) The terms "Secretary" means the Secretary of Health and Human Services.

(4) The terms "shelter" means the provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(5) The term "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services (but not reimbursement for any health-care services) for victims of family violence and their dependents.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 310. (a) There are authorized to be appropriated to carry out the provisions of this title \$11,000,000 for fiscal year 1985 and \$26,000,000 for each of the fiscal years 1986 and 1987. 42 USC 10409.

(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS
AND CONTRACTS

SEC. 311. (a) From the amount appropriated pursuant to section 310 for any fiscal year, the Secretary shall make grants and enter into contracts for the purpose of providing regionally-based training and technical assistance to provide the personnel of local and State law enforcement agencies with means for responding to incidents of family violence. 42 USC 10410.

(b) Grants and contracts under this section shall be awarded competitively on the basis of an application containing such information and assurances as the Secretary may require by regulation. In selecting grant and contract recipients, the Secretary shall select recipients who have demonstrated their effectiveness in preparing the personnel of local and State law enforcement agencies for the handling of incidents of family violence and shall give priority to those applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to improved techniques for responding to incidents of family violence by law enforcement officers.

(c) The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General from funds appropriated under section 310 not in excess of \$2,000,000 for each fiscal year to be used for the purpose of making grants under this section.

ADMINISTRATION AND STATUTORY CONSTRUCTION

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to— 42 USC 10411.

(1) appoint and fix the compensation of such personnel as are necessary;

(2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;

(3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and

(4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and the personnel of local and State law enforcement agencies with means for responding to incidents of family violence.

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(b) Grants and contracts under this section shall be awarded competitively on the basis of an application containing such information and assurances as the Secretary may require by regulation. In selecting grant and contract recipients, the Secretary shall select recipients who have demonstrated their effectiveness in preparing the personnel of local and State law enforcement agencies for the handling of incidents of family violence and shall give priority to

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those applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to improved techniques for responding to incidents of family violence by law enforcement officers.

(c) The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General from funds appropriated under section 310 not in excess of \$2,000,000 for each fiscal year to be used for the purpose of making grants under this section.

ADMINISTRATION AND STATUTORY CONSTRUCTION

42 USC 10412.

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to—

- (1) appoint and fix the compensation of such personnel as are necessary;
- (2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;
- (3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and
- (4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and provisions of this title.

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Regulations.

(b) Nothing in this title shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State authorities.

Approved October 9, 1984.

LEGISLATIVE HISTORY—H.R. 1904 (S. 1003):

HOUSE REPORTS: No. 98-159 (Comm. on Education and Labor) and No. 98-1038 (Comm. on Conference).

SENATE REPORT No. 98-246 accompanying S. 1003 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 2, considered and passed House.

July 26, considered and passed Senate, amended, in lieu of S. 1003.

Sept. 26, House agreed to conference report.

Sept. 28, Senate agreed to conference report.