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.

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".

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

"(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."

(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.".
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

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

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

"(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.

(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."
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AUTHORIZATION OF APPROPRIATIONS

Sec. 104. (a) Section 5(a) of the Act is amended—
(1) by striking out “(a)” after “Sec. 5.”;
(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 $40,100,000 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 $3,000,000 shall be available in each fiscal year to carry out sections 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.”.

(b) Section 5(b) of the Act is repealed.

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.”.

(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) Section 6(b) of the Act is repealed.

(provision for further amendment)

COORDINATION

Sec. 106. Section 7 of the Act is amended by striking out “between” and inserting in lieu thereof “among”.

42 USC 5104.

42 USC 5103.

42 USC 5101.

Post, p. 1733.
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 1023) 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 physician’s 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 physician’s 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 (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), and (ii) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment;”.

ADDITIONAL STATE GRANTS FOR MEDICAL ASSISTANCE, A
Sec. 123. (a) Section 4 of the Act (42 U.S.C. 5103) is amended—
(1) redesignating subsection (d) as subsection (e), and
(2) inserting after subsection (c)(1) the following:
“(c)(1) The Secretary is authorized to award grants to the States for the purpose of developing, establishing, and operating procedures meeting the requirements of paragraphs (B), (2), and (3) of this section; and
“(B) information and training programs for the purpose of providing training in the appropriate methods of caring for disabled infants with life-threatening conditions, including medical, paraprofessional, and professional services; and
“(C) programs to help in developing and implementing new services, including existing or new services, for disabled infants with life-threatening conditions, including adoption, foster care, and other similar services;”.

(2) No State shall receive grants under this section if it fails to enter into contracts with public or private training and technical assistance centers for the purpose of providing training and technical assistance for family members of disabled infants with life-threatening conditions, maintaining, updating, and developing community services and related facilities for disabled infants with life-threatening conditions, and numbers of State and local agencies, families, and physicians are in place for the purpose of providing medical care and other services necessary for the care and development of disabled infants with life-threatening conditions.

(3) Not later than 210 days after the date of enactment of the Child Abuse Amendments of 1984, the Secretary shall certify to the Secretary of Health and Human Services the capability of providing and maintaining medical assistance described in this section.

(4) Programs or projects assisted under part B of this section by grants awarded under this section—

Ante, p. 1749.
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preventing 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—
(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:
"(g)(1) The Secretary is authorized to make additional grants to
the States for the purpose of developing, establishing, and operating
or implementing—
"(A) the procedures or programs required under clause (K) of
subsection (b)(2) of this section;
"(B) information and education programs or training pro-
grams for the purpose of improving the provision of services to
disabled infants with life-threatening conditions for (i) profes-
sional and paraprofessional personnel concerned with the wel-
fare of disabled infants with life-threatening conditions, includ-
ing 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 finan-
cial 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 de-
veloping, 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 commu-
nity resources for the provision of services and treatment for dis-
abled 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).
"(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.
"(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 tech-
nical assistance described in subparagraph (A) of this paragraph.
"(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

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).

(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.

(b)(2) Not later than 60 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

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

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

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-
(b) except as provided in subsection (b), the provisions of this Act or any amendment made by this Act or the application thereof to any person or circumstances shall be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

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.

(b) Except as provided in this section (as added by section 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(a)(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 123(b) 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.

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 Act Amendments 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