

About the state child abuse survey

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The Globe and ProPublica measured states' and territories' compliance with the primary federal child abuse law for children not in foster care, known by its acronym CAPTA, focusing on five provisions identified by experts as among the most important. Over more than two years, child welfare agencies were surveyed about their efforts to protect children. The survey responses, which were also reviewed by child welfare experts from around the country, showed that every child welfare agency fell short in at least one category.

Here are the CAPTA provisions our survey focused on:

1) Plans of safe care: protecting drug-affected infants

Infants affected by drugs or alcohol in the womb are supposed to get a “plan of safe care” from birth that outlines steps to keep them safe. Last year, the federal Children’s Bureau identified 23 states that were not doing an adequate job but has since approved improvement plans from many of them, which makes them in compliance, according to the Children’s Bureau.

Our survey asked whether states and territories:

Required plans of safe care for all infants born affected by the mothers’ substance abuse, whether the substance was legal or illegal.

Reported the number of children born affected by drugs, the number who received plans of safe care, and the number who were referred to state agencies for services.

Based on agency responses, we found that only Nevada, Ohio, and Washington, D.C., were fully compliant with this provision of CAPTA.

2) Differential response: identifying children most at risk

CAPTA requires states and territories to report how they prioritize cases with allegations of child abuse or neglect and strongly encourages them to use “differential response” systems to allow child welfare agencies to respond in a more family-friendly manner to reports of child abuse and neglect which are assessed as low risk.

Such systems have been controversial, particularly when cases deemed low risk have turned out not to be. Moreover, CAPTA does not provide clear guidance on what constitutes compliance with this provision.

Our survey asked whether states and territories:

Could show they had a differential response system.

Could provide data about the number of cases they had identified as low risk and tracked their responses in these cases.

Twenty-nine states and territories met these criteria for compliance with CAPTA.

3) Guardians ad litem: representing children in court

CAPTA mandates that children involved in maltreatment cases be represented in court by someone trained to “obtain first-hand, a clear understanding of the situation and needs of the child” and “make recommendations to the court concerning the best interests of the child.”

Children should receive such representation in “every case,” the law says, though states and territories may decide what kind of representation children are entitled to, ranging

from lawyers to unpaid volunteers.

Our survey compared the number of children with judicial hearings in particular years to the number of children provided with representation over that same time span. If states and territories could not track this information or show that all children with hearings had representation, they could not be considered fully compliant.

We found that 13 states and territories tracked such information, and only two — New Jersey and North Carolina — provided representation to every child with a hearing.

4) Tracking child abuse and neglect deaths

CAPTA requires that states and territories release — when requested — information on children whose deaths or near deaths have been deemed by child welfare agencies to be the result of abuse or neglect. This information must include, at minimum, “the cause of and circumstances regarding the fatality or near fatality; the age and gender of the child; information describing any previous reports or child abuse or neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or near fatality; the result of any such investigations; and the services provided by and actions of the State on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.”

The Globe and ProPublica evaluated states’ and territories’ compliance by requesting this information for all fatalities and near fatalities for 2011 to 2015.

Nineteen states and territories released the information CAPTA requires; 22 released some portion of the information; nine released no information or never fully responded to our records request.

5) Appeals: a chance to clear their names

Federal law requires that, if states and territories keep registries of people found to have maltreated children, they must also have appeals systems for those who contend they have been wrongly included. Child welfare cases rarely go to criminal court, so those on state registries typically have not been found guilty “beyond a reasonable doubt.” Instead, there has been a “substantiated” finding of abuse or neglect against them. Once their names go into a registry, it can have consequences involving employment, licensing, and participation in activities involving children, such as coaching youth sports.

Our survey evaluated whether states and territories comply with the requirement for an appeals system by asking for data on requests for appeals as well as on appeals dismissed, withdrawn, upheld, reversed, and expunged or removed. Experts also helped us assess some appeals systems.

We found 32 states and territories had appeals systems in place and data showing the systems worked. Four states — Maryland, Oklahoma, Washington, and Wisconsin — said they had no registries but provided an appeals system nonetheless, though they are not required to do so under CAPTA.

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