Office of Children's Services

"Stronger Families, Safer Children"

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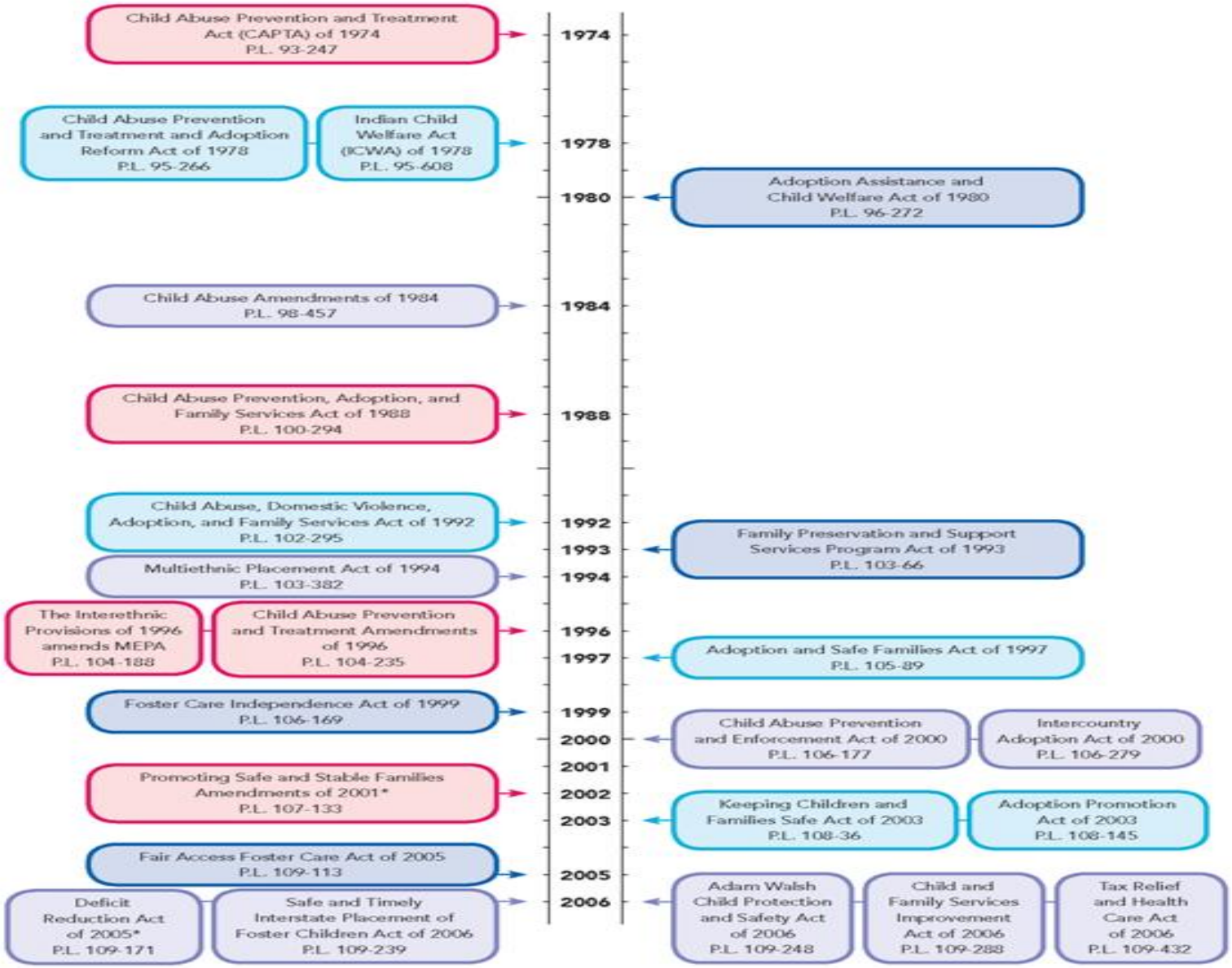
Background

The Office of Children's Services receives federal financial funding through 42 U.S.C. 670 - 676 Title IV-E of the Social Security Act.

Timeline of Major Federal Legislation Concerned With Child Protection, Child Welfare, and Adoption



Title IV-E
Federal Requirements

Federal law prohibits Title IV-E reimbursement for foster care and adoption assistance costs for a child who is placed in a foster or adoptive home where a prospective foster or adoptive parent has committed any of the following crimes:

a. A felony conviction at any time for

1) Child abuse or neglect;

2) Spousal abuse;

3) A crime against children (including child pornography);

4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

b. A felony conviction within the past 5 years, for physical assault, battery, or a drug-related offense.

Adam Walsh Child Protection and Safety Act (Enacted July 2006)

- Fingerprint-based checks of the National Crime Information Database (NCID) are required for prospective foster or adoptive parents that the state licenses or approves for a child under the Title IV-B and IV-E programs.
- States must check a state-maintained child abuse and neglect registry in each state in which the adults living in the household of the prospective foster or adoptive parent have resided in the past five years prior to licensing or approving home.

Criminal Background Checks for Health and Social Service Workers

State law requires background checks for each individual age 16 or older who is to be associated with the potential unlicensed relative, prospective foster or adoptive parent or guardian. The criminal history check must be valid before placement of a child in the home.

AS 47.05
Criminal History; Registry

These statutes apply to any individual or entity that is required by statute or regulation to be licensed or certified by the department or that is eligible to receive payments, in whole or in part, from the department to provide for the health, safety, and welfare of persons who are served by the programs administered by the department.

7 AAC 10.900
(Effective February 9, 2007)

These regulations apply to any individual licensed by the Department of Health & Social Services, or an employee or regular volunteer of a licensed facility who has been charged with, convicted of, found not guilty by reason of insanity or adjudicated as a delinquent. It also applies to anyone with a crime of similar elements in another jurisdiction.

Background Check Process

- At the time of application, and when a new household member or staff age 16 and older is associated with the entity, he or she must complete a Clearance Form and be fingerprinted.
- The OCS conducts criminal background checks, child protection records, licensing history, juvenile justice background checks, court records, and the sex offender registry.
- Out-of-state background checks are also conducted on individual's who lived in another state in the past five years.
- The results of the checks must not prevent approval of the home.

Barrier Time Limits

- 7 AAC 10.905 Permanent barrier
- 7 AAC 10.905(c) 10 year barrier
- 7 AAC 10.905(d) 5 year barrier
- 7 AAC 10.905(e) 3 year barrier
- 7 AAC 10.905(f) 1 year barrier

When a Barrier Crime is Known

- If a barrier crime is found to be within the current barred time limit, the entity is notified immediately.
- Upon notification of a barrier crime, the individual must vacate the premises with 24 hours.

7 AAC 10.930
Request for a Variance

The entity who wishes to retain the individual must request a background variance, **not** the individual with the criminal history.

How to Apply for a Variance

- The Variance Application Request form can be obtained from the oversight agency.
- The entity is responsible for submitting an application for a variance request to the agency providing oversight for their particular services.
  - OCS for Foster Care, Adoption, and Child Placement Agencies
  - DPA for Child Care
  - DPH for Assisted Living and Residential Care
  - HCS for Hospitals and Nursing Homes
  - DBH for Mental Health Facilities
  - DSDS for Respite Care

Barrier Crimes Variance Committee

- The Variance Committee began on April 4, 2007. There are 7 members of the committee, appointed by the Commissioner representing each oversight division and the Commissioner's office.
- The oversight agency reviews the request and forwards it to the variance committee.

Barrier Crimes Variance Committee

- The variance committee reviews all elements pertaining to the barrier crime, & mitigating factors, and makes a recommendation of it's finding.
- Depending upon whether the barrier crime is a permanent barrier, the committee's recommendation is sent to either the director of the oversight agency or directly to the Department's commissioner for approval or denial.

Variance Statistics 4/4/07 – 12/31/07

Total Requests = 60

- Withdrawn = 2
- Sent back to Committee = 1 (permanent)
- Total Pending = 0
- Total completed = 58
- Total Approved = 33
- Total Denied = 13
- Total Permanent Bar = 17
- Permanent Withdrawn = 1
- Permanent Approved = 3
- Permanent Denied = 13

- C&L Facilities = 30
- C&L Residential Licensing = 10
- OCS = 4
- DSDS = 14
- DBH = 2
- DPA = 0

Variance Statistics 1/1/08 – 12/31/08

Total Requests = 120

- Withdrawn = 5
- Sent back to Committee = 0
- Total Pending = 0
- Total completed = 113
- Total Approved = 96
- Total Denied = 17
- Total Permanent Bar = 30
- Permanent Withdrawn = 2
- Permanent Approved = 16
- Permanent Denied = 14

- C&L Facilities = 46
- C&L Residential Licensing = 16
- OCS = 14
- DSDS = 29
- DBH = 8
- DPA = 7

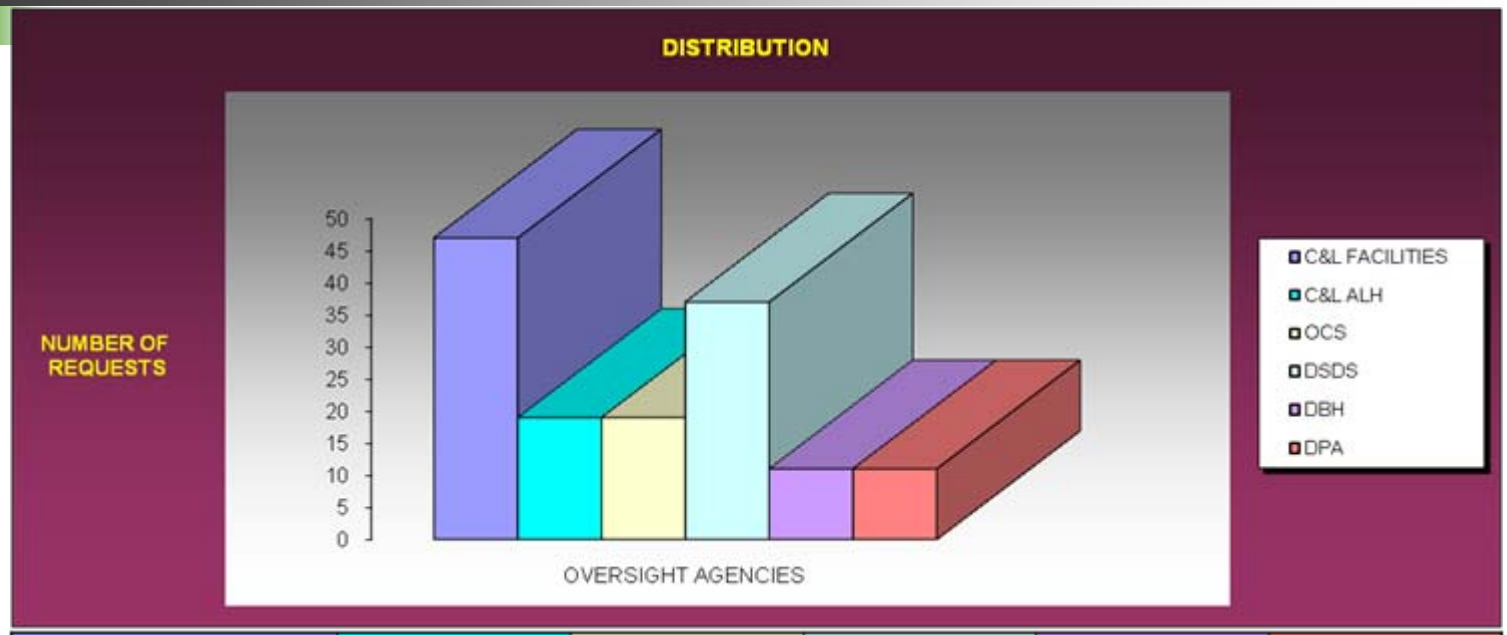
Variance Statistics 1/1/09 – 3/31/09

Total Requests = 16

- Withdrawn = 0
- Sent back to Committee = 0
- Total Pending = 1
- Total completed = 15
- Total Approved = 12
- Total Denied = 0
- Total Permanent Bar = 3
- Permanent Withdrawn = 0
- Permanent Approved = 3
- Permanent Denied = 0

- C&L Facilities = 1
- C&L Residential Licensing = 2
- OCS = 5
- DSDS = 3
- DBH = 1
- DPA = 4

Variance Statistics 2/4/07 – 3/11/09



C&L FACILITIES	C&L RESIDENTIAL	OCS	DSDS	DBH	DPA
47	19	19	37	11	11
32.64%	13.19%	13.19%	25.69%	7.64%	7.64%

Questions?

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