

UPDATE

FFY 2010-2014 Final Report and FFY 2014-2019 Child and Family Services Plan

Assurances Regarding the Child Abuse Prevention and Treatment Act as Amended by P.L. 111-320 The CAPTA Reauthorization Act of 2010 Section 106(b)(2)(B)(x)

On May 30, 2013, South Carolina submitted a revised CAPTA State Plan (CAPTA Plan) to the ACF. At the same time, the state submitted assurances as required by Section 106(b)(2) of the CAPTA Reauthorization Act of 2010 P.L. 111-320 . However, during the development of the CAPTA State Plan, the state raised a concern about the requirements of Section 106(b)(2)(B)(x) and the federal policies explaining this section of the CAPTA. Section 106(b)(2)(B)(x) requires the state's to operate a statewide program with “. . . provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality.” After reviewing state statutes and practices and consulting with the ACF Region IV Office, South Carolina concluded that the state's provisions for public disclosure of information in child abuse or neglect cases resulting in child fatality or near fatality were not in alignment with federal policies. ACF asked the state to explain in its Annual Progress and Services Report (APSR) how the state would align its provisions for public disclosure of child abuse or neglect resulting in child fatality or near fatality with federal policies.

In the APSR submitted June 2013, South Carolina explained its intent to implement policies and procedures that take into account federal policy related to the public disclosure of child abuse or neglect resulting in child fatality or near fatality. These policies and procedures would especially incorporate the federal guidance found in the Children's Bureau Child Welfare Policy Manual, 2.1A. Question 8. Specifically, South Carolina explained its intent to ensure the “release of information relating to the cause of and circumstances regarding the child fatality or near fatality; the age and gender of the child; information describing any previous reports or child abuse or neglect investigations that is 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 [South Carolina Department of Social Services] on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.” Because state statutes, S.C. Code Sections 63-7-1990 (G) and (H), permit the state to release information about child abuse or neglect to the public under certain circumstances, the state did not anticipate having to pursue the enactment of new state laws or statutory amendments in order to meet the CAPTA requirements.

South Carolina drafted policies and procedures that would allow the state to publish a written report each time a child protective services investigation into a child fatality or near fatality resulted in an “indicated” case decision. South Carolina Code Section 63-7-940 prohibits

disclosure of information contained in “unfounded” investigations except under very limited circumstances.

In the spring of 2014, the state forwarded drafts of its policies and procedures to the ACF for comments. South Carolina also met with its consultant from the ACF Region IV Office in April 2014 to discuss the policies and procedures the state proposed to implement. The ACF expressed concerns that state law prohibits the disclosure of information contained in “unfounded” reports of child abuse and neglect. At the time of this meeting, the state believed legislation pending before the South Carolina General Assembly (Senate Bill Number 1163 and House Bill Number 3124) might address the ACF’s concerns by permitting the state to disclose to the public information about child abuse or neglect resulting in child fatality or near fatality in unfounded cases. Unfortunately, neither of these Bills was acted upon during the most recent session of the South Carolina General Assembly. The 2013-2014 regular session ended with both bills in committee.

In written correspondence, the ACF acknowledged understanding the state prohibition against disclosure of information contained in unfounded reports of child abuse or neglect, but wrote, “There is no broad exception that would allow for non-disclosure of all unfounded child abuse or neglect reports if those reports are found to be pertinent to the abuse or neglect that led to the child fatality or near fatality.” Thus, when the SC General Assembly reconvenes in January 2015, South Carolina Department of Social Services (SCDSS) will pursue an amendment to state statutes that limit disclosure of information contained in unfounded reports. Until the General Assembly reconvenes in January 2015, SCDSS will explain to members of the General Assembly as well as the agency’s partners in the child and family services system the need for legislative action in 2015.

By October 2014, SCDSS will draft a proposal for the necessary amendments to state statutes. SCDSS will also identify a sponsor in the General Assembly to introduce a bill, with the goal of pre-filing a bill by December 2014.

Using the current statutory framework, the state will begin implementation of policies and procedures for disclosing information of child abuse and neglect resulting in child fatality or near fatality. South Carolina will implement these policies and procedures and will evaluate and adjust the policies and procedures toward the goal of establishing a sound practice of developing these reports for the public by January 2015. South Carolina anticipates being able to fully meet the requirements of the Child Abuse Prevention and Treatment Act as Amended by P.L. 111-320 The CAPTA Reauthorization Act of 2010 Section 106(b)(2)(B)(x) by June 2016, the end of the next legislative session. SCDSS will report on the progress of the statutory amendments as well as the policies and procedures that can be implemented within the state’s current statutory framework in the 2015 APSR.