

Crossing a Line: Why Interstate Background Checks are Critical to Protect Children

EARLY CHILDHOOD, APRIL 2019



Overview

Every day in the United States, between four and eight children die from abuse or neglect by their parents or caretakers. Many more are victims. Most of these children are infants and toddlers—children who are at the most critical stage in their development are also the most vulnerable to harm.

In 2014 the Child Care and Development Block Grant (CCDBG) Act introduced comprehensive, uniform background check requirements for all child care staff to promote the safety of children when they are cared for out of their home. Staff are required to undergo a series of federal and state background checks, which include the records of child abuse and neglect investigations. These records are held in statewide databases known as “central registries” which are required under the Child Abuse Prevention and Treatment Act (CAPTA). Central registries must be checked both in the state where the individual resides, and in each state where the individual has resided during the preceding five years—known as interstate checks.

These laws are meant to complement each other and keep children safe regardless of who is caring for them and regardless of the state in which they reside. Yet, child care background checks are hardly being implemented at all: only two states are fully compliant with the CCDBG background check requirements.^a This results in a confusing system that lacks oversight and accountability, and ultimately fails to protect children.

^a Of the remaining States, twelve entered corrective action plans and four risk a monetary penalty.

CAPTA Recommendations to Address Barriers with Interstate Central Registry Checks

As Congress examines reauthorization of CAPTA, improvement of the central registry system would assist states that are struggling to implement the most difficult piece of the CCDBG requirements—interstate checks of child abuse and neglect registries.

Standardize Central Registries

There is no standard reporting system for child abuse or neglect in CAPTA.¹ Instead, information in central registries varies widely depending on state statute, including differences in definitions, expunction standards, timelines, and procedures. Several states maintain all investigated reports, while other states maintain only ‘substantiated’ reports, the definition of which varies. These discrepancies make it difficult for states to understand and interpret another state’s response to a background check request under CCDBG.

Solution: Require states to post on a central website their policies, definitions, including definition of “substantiated” reports, standards, procedures, and timelines. This transparency would allow states, child care providers, and concerned parents to access such information. In addition, the information should accompany responses to another state’s request for information.

Incentive to Respond

Despite CAPTA’s requirement, “to disclose confidential information to any federal, state, or local government entity, or any agent of such entity,” several “closed record states” have privacy protection laws that prohibit information from being released to out-of-state entities for civil purposes, including determining employment eligibility. While privacy protections are crucial, prior to the changes to CCDBG only about one-third of states responded to out-of-state inquiries for employment purposes.² These policies still often supersede other federal requirements—including those in CCDBG—which makes it difficult, at best, for states to receive information on the background of a potential new child care employee.

Solution: Clarify that states are required to respond to another state’s request for registry checks for purposes of meeting the requirements and responsibilities under the Child Care and Development Block Grant Act of 2014 and Title IV-E of the Social Security Act.^b

Georgia, as an example, “lacks a solution for resolving the issue of complying with the interstate criminal background check requirement because other states do not have an incentive to respond to an applicant’s request or Georgia’s request for background check information.”³

^b Title IV-E of the Social Security Act requires similar interstate background checks of registries for prospective foster and adoptive parents.

Other Legislative Considerations: Additional Barriers with Implementation

Most states are struggling to implement other background check requirements within CCDBG, preventing a completely safe atmosphere for children. For example, the Office of Inspector General found New York⁴, Illinois⁵, Colorado⁶, and New Hampshire⁷ each had significant implementation challenges, including data system limitations and a need to enact new state laws, policies, and procedures. Nearly five years after the law passed, only two states have met all background check requirements in CCDBG.

Background Check Task Force

Successful implementation of CCDBG requires coordination across several additional laws, multiple public agencies, within and across states. More information is needed to fully comprehend the problem and identify solutions that will work for families, child care providers, and legislators at all levels, in order to support states in meeting the background check requirements under CCDBG.

Solution: Establish a Task Force to carry out the following activities:

- Present a report to Congress, HHS, FBI, state agencies, and other related agencies within one year;
- Include a comprehensive analysis of all background check requirements in CCDBG including identifying challenges or barriers in meeting such requirements;
- Offer recommendations related to addressing such challenges or barriers that states face, so they are better able to meet the requirements of CCDBG;
- Identify whether requirements under CCDBG, CAPTA, and Title IV-E of the Social Security Act are complementary or if there are discrepancies which need to be addressed; and
- Consider how communications between and across states could be improved, including automated network use and if such networks or systems would allow for more effective and efficient exchange of child abuse and neglect records.

Endnotes

- 1 Commission to Eliminate Child Abuse and Neglect Fatalities, *Within Our Reach - A National Strategy to End Child Abuse and Neglect Fatalities*, 2016. Available at: https://www.acf.hhs.gov/sites/default/files/cb/cecanf_final_report.pdf.
- 2 U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Report to the Congress on the Feasibility of Creating and Maintaining a National Registry*, September 2012. Available at: <https://aspe.hhs.gov/system/files/pdf/180336/ReportToCongress.pdf>.
- 3 U.S. Department of Health and Human Services, Office of the Inspector General, *Georgia Implemented Most New Criminal Background Check Requirements For Childcare Providers, But Challenges Remain For Unimplemented Requirements*, July 2018. Available at: <https://oig.hhs.gov/oas/reports/region4/41803578.pdf>.
- 4 U.S. Department of Health and Human Services, Office of the Inspector General, *New York Has Not Fully Implemented New Criminal Background Check Requirements*, January 2019. Available at: <https://oig.hhs.gov/oas/reports/region2/21702011.pdf>.
- 5 U.S. Department of Health and Human Services, Office of the Inspector General, *Illinois Implemented Most Requirements For Childcare Providers But Challenges Remain*, June 2018. Available at: <https://oig.hhs.gov/oas/reports/region5/51700047.pdf>.
- 6 U.S. Department of Health and Human Services, Office of the Inspector General, *Colorado Implemented Many Requirements for Childcare Providers but Challenges Remain*, September 2018. Available at: <https://oig.hhs.gov/oas/reports/region7/71706076.pdf>.
- 7 U.S. Department of Health and Human Services, Office of the Inspector General, *New Hampshire Implemented Most Requirements for Childcare Providers but Challenges Remain*, July 2018. Available at: <https://oig.hhs.gov/oas/reports/region1/11802500.pdf>.



BIPARTISAN POLICY CENTER

Learn more about
Bipartisan Policy Center's
Early Childhood Initiative at
bipartisanpolicy.org/early-childhood.