

Potential Statutory Recommendations:

CFSD Bills re: Federal Law Compliance:

1. HB 309 (2015 Session):
 - o Add a statute to create a child abuse and neglect fatality review commission to comply with Child Abuse Prevention and Treatment Act (CAPTA) public disclosure requirements
2. Title IV-E changes from the federal Preventing Sex Trafficking and Strengthening Families Act - H.R.4980:
 - o MCA 41-3-102: Definitions
 - Add the definition for “reasonable and prudent parenting” as defined in federal law
 - o MCA 41-3-445: Permanency Plan Hearing
 - For all cases, add a requirement that the court find that the youth’s placement is following the reasonable and prudent parenting standard and that the youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including consulting, in an age appropriate manner, with the court about the opportunities of the youth to participate in the activities).
 - For all cases, add a requirement that the court find that the youth has regular, ongoing
 - For youth 14 and older, add a requirement that the court find whether the services needed to transition from foster care to successful adulthood have been/are being provided to the youth.
 - For youth 14 and older, add a requirement that the court find whether the plan was developed in consultation with the youth, and at the option of the youth, with up to 2 members of the case planning team who are chosen by the youth, so long as there is no good cause to believe that the individuals chosen would not act in the best interests of the youth, and who are not the caseworker or the foster parents.
 - For any youth whose permanency plan is a planned permanent living arrangement, under subsection 8(e), add a requirement that the court find whether the state has documented intensive, ongoing, and as of the date of the hearing, unsuccessful efforts to return the youth to the home or secure a placement with a fit and willing relative, legal guardian, or an adoptive parent, including through the use of technology designed to find biological family members of the youth.
 - For any youth whose permanency plan is a planned permanent living arrangement, under subsection 8(e), add a requirement that the court make a determination that there are compelling reasons why this permanency option (and not one of the above listed options) continues to be in the best interests of the youth.
 - For any youth whose permanency plan is a planned permanent living arrangement, under subsection 8(e), add a requirement that at each hearing, there are procedures to ensure the court asks the youth what the youth desires as a permanency outcome.

- MCA 41-3-115: Foster care review committee – foster care reviews – permanency hearings
 - Require that the FCRC document the intensive, ongoing, unsuccessful efforts for family placement.
 - Require that the FCRC document the steps the State is taking to ensure the youth’s foster family or facility is following the reasonable and prudent parenting standard.
 - Require that the FCRC document that the youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including consulting, in an age appropriate manner, with the court about the opportunities of the youth to participate in the activities).
- 3. HB 257 (2015 Session):
 - Create a Foster Child & Foster Parent Bill of Rights (HB 257 – 2015 Session)
- 4. MCA 41-3-201(7): Reports
 - Revise required information to take a report of child abuse/neglect to clarify reports can be taken even if the reporter does not know all of the listed information
- 5. Title 42: Adoption
 - Amend to include open adoption and customary adoption statutes
- 6. Improve timeliness and consistency in practice:
 - MCA 41-3-437: Adjudication
 - Clarify whether the court adjudicates the child or makes a separate adjudication as to each parent of the child
 - Allow for “deferred” adjudication (i.e. if a parent successfully completes a treatment plan and is reunified with the child, then the adjudication/finding of abuse or neglect goes away)
 - MCA 41-3-443: Treatment plan – contents - changes
 - Add a timeline for treatment plans
 - MCA 41-3-604: When a petition to terminate parental rights required
 - Add a timeline for TPR hearings to be set after filing of petition (and include similar provision regarding continuances that applies at show cause)
- 7. MCA 41-3-425: Right to Counsel
 - Amend to not appoint counsel of absent parents until prior to termination of parental right
- 8. MCA 41-3-425: Right to Counsel
 - Amend to require appointment of counsel for “verbal” children/children of an age at which they can express their wishes
- 9. MCA 41-3-112: Guardian ad litem
 - Clarify whether the CASA is a GAL in all cases
- 10. MCA 41-3-108: Child Protection Teams
 - Clarify purpose and how different from MDTs focused on criminal prosecution
 - Add language regarding ability of participants to share information in these team meeting
- 11. Change Social Worker to Child Protection Specialist
- 12. Add a discovery statute

- ~~13. Safety versus incident based focus — did LAD get it right or does PMK disagree with them and see the current definitions as consistent with CFSD assessment process/model~~
14. MCA 41-3-438: Disposition
 - Revise choices regarding noncustodial parent rights to placement to ensure consistency in whether to dismiss or leave case open when a child is placed with a nonoffending parent
- ~~15. Apply ICWA standards to all cases~~
- ~~16. MCA 41-3-422(9): Abuse and neglect petitions — burden of proof~~
 - ~~○ Amend Grandparent intervention statute to create a right of intervention~~
17. MCA 41-3-438: Disposition & MCA 41-3-442: Temporary Legal Custody
 - Add a provision to allow a court to order Grandparent/Relative caretaker visitation at dismissal
18. MCA 41-3-424: Dismissal
 - Amend dismissal Statute change to allow for court discretion to dismiss
19. Title 45: Add a criminal offense of felony assault on a child protection specialist
20. MCA 42-7-105: Fees and Prohibited Activities Related to Adoption
 - Repeal the law that only allows the department or a child placing agency to advertise a child for adoption or engage in placement activities related to placing a child for adoption
21. “Erin’s Law” regarding education in schools on sexual abuse prevention
22. Add a statute requiring one Judge to hear all of the related cases concerning a family and children (One Judge/One Family)