

HAVING KIDS™

Child-first Advocacy

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August 1, 2018

Hon. Lamar Alexander,
Chairman
Senate Committee on Health, Education,
Labor & Pensions
428 Dirksen Senate Office Building
Washington, D.C. 20510

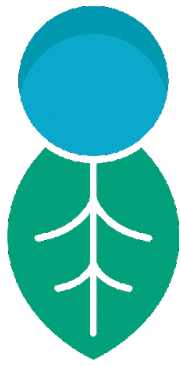
Hon. Patty Murray,
Ranking Member
Senate Committee on Health, Education,
Labor & Pensions
428 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray:

[Having Kids](#) is a national nonprofit organization dedicated to [reforming family planning](#) by replacing parent-centered family planning models with the human rights-based and child-first [Fair Start model](#). We are writing to you out of concern for current and future child abuse/neglect victims across the country.

The Child Abuse Prevention and Treatment Act (“CAPTA”), is one of the few pieces of federal legislation that addresses the enormous national problem of child abuse and neglect in the United States. Having Kids agrees with the Congressional Findings from the CAPTA Reauthorization Act of 2010 that “substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences **are matters of the highest national priority**” (emphasis added). We also note that the findings specifically state that “the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of thousands of children and results in a cost to the Nation of billions of dollars in tangible expenditures as well as significant intangible costs.”[1] It is truly in the best interest of the entire country to work towards the prevention of child abuse.

While there may be gradual improvement across the country on the recognition, reporting and prosecution of child abuse crimes, the lack of progress in actual *prevention* of child abuse before it happens is a major concern. Victims of child abuse, provided that they survive such abuse,



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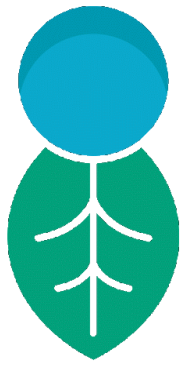
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often endure years of physical and psychological trauma from such abuse.[2] Since 1991, the Department of Health & Human Services has issued annual Child Maltreatment reports with data compiled from across states. The Child Maltreatment reports from 2012 to 2016 show that the epidemic of child abuse and neglect[3] in the United States is not improving. In 2016, there were an estimated 676,000 children across the country who were victims of abuse and neglect, up 3% from 2012. The number of child fatalities that were the result of abuse and neglect steadily rose each year with 1,750 fatalities in 2016 versus 1,640 in 2012. That is approximately 5 children dying every day in the United States as the result of abuse and/or neglect.

Even more disturbing, in 2016, 30% of the victims of child abuse victims were repeat victims.[4] And, unsurprisingly, 91% of these hundreds of thousands of abused or neglected children were maltreated by one or both parent. This national epidemic of child abuse is being perpetrated by parents against their own children and, in many cases, allowed to happen multiple times. We don't need to look too deeply into news headlines to see that physical abuse within a household is often not limited to just a single child. Take, for one egregious example, the 13 Turpin children who were physically and psychologically tortured by both their parents for a period of time spanning many years. Or, the five young children in Lansing, Michigan who were locked up in dark rooms without food, water, or access to a bathroom at various time periods over the course of six years.[5] When the abuse is neglect, it is even more likely that multiple children are suffering in one household. Some examples include three children recently removed from a home in Florida found to be crawling with *hundreds* of bugs, including cockroaches,[6] five children removed from a home covered in animal feces and broken glass[7] and nine children who were abandoned in a minivan in freezing weather without food.[8]

The common-sense recognition that there is heightened risk of harm to children residing in a home with a convicted abuser (whether or not those particular children were the subject of the abuse at issue) was clearly considered in prior versions of CAPTA. Section 106 of CAPTA allows States to apply for federal grants for child abuse prevention and treatment programs. This federal law enumerates “eligibility requirements” that each state must comply with in order to receive funding under this provision. Among these requirements is:



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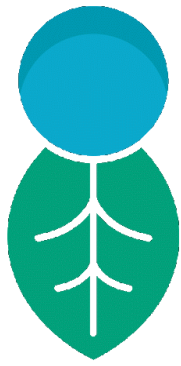
“an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xvi), conviction of any one of the felonies listed in clause (xvi) **constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children** (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State).”

42 U.S.C. Ch. 67 Section 5106a(b)(2)(B)(xvii)

In short, this subsection provides that in order to receive certain federal funding under CAPTA, a state must demonstrate that its laws allow for the termination of parental rights of the convicted parent as to all the parent’s children in the event that said parent is convicted of a particular felony (including murder, manslaughter, felony assault that results in serious bodily injury, and sexual abuse). This shows that the federal government is concerned with the welfare of the offender’s existing children as there is ample evidence that child abuse has high recidivism rates. For example, just last week a Baltimore man who served three years in prison for child abuse that caused the death of his infant son was charged with killing his girlfriend’s 18-month-old son.[9] Several months ago, a woman in Colorado was convicted in the death of her infant son (in 2016) who died when she slept in the same bed as her son while drunk and high. An almost identical scenario happened with another infant son who died in July 2014 (trial on this charge pending).[10]

Having Kids applauds the federal government for recognizing that severing parental rights between an offender and his or her children can be a means to prevent future child abuse. However, absent from these eligibility requirements is mention of state laws that would allow a court to do anything to protect the interest of future children. It does not follow, logically, if the government sees an interest in a state at least having a mechanism to terminate parental rights as to surviving children, why the state should not be required to have a mechanism to ensure the protection of future children as well?

Having Kids urges the U.S. Congress, through appropriate procedural means, to consider an amendment to Section 106 of CAPTA to include, as funding eligibility requirements, that a state have legislation in place that allows judges to impose, as a condition of probation for a limited time period, an order prohibiting an offender convicted of certain felonies from having children.



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The details of such an approach can be found at <https://havingkids.org/solution-fair-start-orders/>. As the federal government has clearly already recognized through the qualification cited above, when an offender is convicted of a particularly egregious felony, he or she has demonstrated a clear unfitness to parent, at least for a limited time. As the government has an interest in not putting helpless children back into a convicted abuser's care, the government should similarly consider the right of a child not to be born to a known abuser.

The United States can fulfill its obligations to future children by moving towards a human-rights based and child-first family planning model. Having Kids is available to assist in creating policy and law that furthers this goal. Please contact us.

Sincerely,

Anne Green
Executive Director
Having Kids

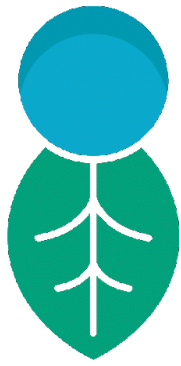
[Having Kids](#) is a 501(c)3 nonprofit organization dedicated to reforming family planning by replacing parent-centered family planning models with the human rights-based and child-first Fair Start model.

[1] Per a 2012 report released by the Centers for Disease Control and Prevention, the total lifetime estimated financial costs associated with just one year of confirmed cases of child maltreatment (physical abuse, sexual abuse, psychological abuse and neglect) is approximately **\$124 billion**. Study available at

<https://www.sciencedirect.com/science/article/pii/S0145213411003140>

[2] See e.g. "Long-Term Consequences of Child Abuse and Neglect," Child Welfare Information Gateway, July 2013, available at

https://www.childwelfare.gov/pubpdfs/long_term_consequences.pdf; "How Child Abuse Primes the Brain for Future Mental Illness," Time Magazine, Feb. 15, 2012, available at



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<http://healthland.time.com/2012/02/15/how-child-abuse-primers-the-brain-for-future-mental-illness/>; “Long-Term Effects of Child Abuse and Neglect on Emotion Processing in Adulthood,”

Joanna Cahall Young and Cathy Spatz Widom, April 18, 2014, available at

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4117717/>

[3] CAPTA defines child abuse and neglect as, at a minimum: Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act, which presents an imminent risk of serious harm.

[4] There were 470,000 “first-time victims” meaning that 206,000 victims – or 30% of total victims- were repeat victims of child abuse and/or neglect.

[5]

<https://eu.lansingstatejournal.com/story/news/local/2018/07/26/police-lansing-kids-dungeon-whipped-punishment-abuse-child-protective-services-sarah-yenier-conde/828404002/>

[6]

<https://www.wdtn.com/news/u-s-world/three-charged-in-florida-traumatic-child-neglect/1317390811>

[7]

<https://wcyb.com/news/local/two-greene-county-women-charged-with-child-neglect-after-kids-found-in-horrid-conditions>

[8]

<https://www.nbcwashington.com/news/local/Maryland-Mother-Sentenced-for-Abandoning-10-Children-on-Cold-Night-489272361.html>

[9] <https://baltimore.cbslocal.com/2018/07/23/18-month-olds-murder-charges/>

[10]

<https://www.denverpost.com/2018/02/05/mother-twice-accused-of-killing-babies-by-sleeping-in-the-same-bed-convicted/>