

Child Welfare Policy Manual

Questions & Answers

2.1E CAPTA, Assurances and Requirements, Reunification

1. Question: If a State does not "require" reunification, in general, must it do anything further regarding the mandate in section 106(b)(2)(B)(xvi) which requires that provisions, procedures, and mechanisms be implemented to assure that the State does not require reunification with a parent who has been convicted of murder, manslaughter, felonious assault or sexual abuse of the surviving child or another child of the parent, or who is required to register with a sex offender registry?

Answer: Yes. To comply with this section of CAPTA, States must have provisions, procedures, and mechanisms in place which address the fact that reunification is not required in the circumstances enumerated under 106(b)(2)(B)(xvi).

- **Source/Date:** ACYF-NCCAN-PIQ-97-01 (3/4/97); updated 2/3/05; 12/9/11
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(xvi)

2. Question: Section 106(b)(B)(xvi) of CAPTA requires that provisions, procedures, and mechanisms be implemented to assure that a State does not require reunification with a parent who has been convicted of certain felonious acts, a parent who has been convicted of sexual abuse against the surviving child or another child of the parent, or a parent who is required to register with a sex offender registry. On the other hand, the Indian Child Welfare Act (ICWA) requires that "any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have been unsuccessful" (25 U.S.C §1912(d)). Does a conflict exist between the two statutes?

Answer: No. There is no conflict between the CAPTA provision and the ICWA requirement noted above. The CAPTA provision does not prohibit States from making reasonable efforts to reunify families as required under ICWA (as well as under title IV-E); it merely ensures that States not require reunification under certain circumstances. Therefore, it does not conflict with the ICWA requirement regarding efforts to prevent the breakup of Indian families.

- **Source/Date:** ACYF-NCCAN-PIQ-97-03 (9/26/97); updated 2/3/05; 12/9/11

- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106 (b)(2)(B)(xvi); Indian Child Welfare Act (25 U.S.C §1912(d))

3. Question: Does section 106(b)(2)(B)(xvii) of CAPTA mean that children cannot be reunified with a parent who has committed the specific crimes therein or must be registered with a sex offender registry pursuant to section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006?

Answer: No. This provision is not a prohibition against reunification, but rather assures that reunification is not required in cases where the parent has committed the crimes listed in 106(b)(2)(B)(xvii) or had to register with the Adam Walsh sex offender registry. The decision as to whether to reunify or seek termination of parental rights is within the sole discretion of the State and is determined on a case-by-case basis.

- **Source/Date:** ACYF-NCCAN-PIQ 97-01 (3/4/97); updated 2/3/05; 12/9/11
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(xvii)