Constitutional, Federal and State Law Overview

1. Federal Child Welfare Legislation

CAPTA (Child Abuse Prevention and Treatment Act - 42 U.S.C.A. § 5106a(b)(2)(B)(viii)-(x)):

Enacted in 1974. CAPTA provides Federal funding to States in support of prevention, assessment, investigation, prosecution, and treatment activities as well as grants to public agencies and nonprofit organizations for demonstration programs and projects. CAPTA provided for mandatory reporting of child abuse. Additionally, CAPTA identifies the Federal role in supporting research, evaluation, technical assistance, and data collection activities. CAPTA also sets forth a minimum definition of child abuse and neglect. CAPTA as amended by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at 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."

While Federal legislation sets minimum standards for States that accept CAPTA funding, each State provides its own definitions of maltreatment within civil and criminal statutes.

As it relates to GALs, CAPTA provides that if judicial proceedings are necessary to protect a child, then a GAL must be appointed to represent the child's interest. However, CAPTA does not currently require that the GAL be an attorney. A portion of CAPTA funds may also be used to train professionals, including GALs, and to improve legal preparation and representation.

AACWA (Adoption Assistance and Child Welfare Act of 1980 - Public Law 96-272)

AACWA was a response to concerns over the number of children entering the foster care system and the length of time they remained in the system after removal. The goal of the Act was to reduce the number of children entering the system and to reduce the amount of time those who did enter the system remained in the system. In that regard, the Act mandates that state agencies must make "reasonable efforts" to prevent the removal of children and to facilitate permanency for children after removal. The underlying mandate of AACWA was to preserve families. To comply with that mandate, many state agencies increased their use of "family preservation" services.

AACWA also created Titles IV-B and IV-E of the Social Security Act and established the first federal rules to govern child welfare case management, permanency planning, and foster care placement reviews. States were also required to develop reunification and preventative programs for foster care and assure that children in non-permanent settings had either court or state agency reviews at least every six months.

Title IV-B of the Social Security Act

Established by ACCWA as a funding scheme to allow state agencies to prevent and respond to cases of child maltreatment. The purpose was to promote a state agency's ability to develop and expand a child and family services program that utilized community-based services and to ensure that children are raised in safe and permanent families.

NOTE: How a state intends to use their IV-B funds should be detailed in their "state plan" which is accessible to the public. As a GAL you may want to become familiar with Colorado's state plan so that, among other reasons, you can effectively advocate for services to be paid for by the agency.

TITLE IV-E of the Social Security Act

Established by AACWA as a funding scheme to help states offset the costs of placing abused and neglected children into the foster care system when they cannot be safely maintained at home. It requires that the first court order authorizing removal find that it is "contrary to the child's welfare" to remain in the home and state the reasons for that finding.

Additionally, it requires that every child who enters foster have a plan that articulates the permanency plan, a schedule of services that the parents and children must receive to facilitate reunification, or if reunification is not the permanency plan, then it must articulate the plan for achieving permanency.

ASFA (Adoption and Safe Families Act of 1997, Pub. L. No. 105-89)

ASFA was one of the most sweeping child welfare laws passed in over two decades. It was, in part, a response to concerns about the safety and timely permanence of children. As to the reasonable efforts requirement, ASFA adds that "in determining reasonable efforts, the child's health and safety shall be the paramount concern." In addition, the major provisions of ASFA include:

- Requires states to file for TPR if a child has been in the state's custody for **15 of the most recent 22 months**, with 3 exceptions. The exceptions are that the child is **placed**

with a relative, the state agency documents a ***compelling reason*** why TPR is NOT in the child's best interest, OR the state agency has **not provided adequate reunification services**, even though obligated to do so.

- Requires that permanency hearings be held every 12 months
- Clarifies when a state agency can forego efforts to reunify families ("aggravated circumstances" which each state can define) and move straight to TPR/Adoption or another permanency plan
- Requires states to document efforts to move children toward adoption
- Extends adoption subsidies
- Provides incentives to state agencies to finalize adoptions
- Permits states to use ***concurrent planning*** in order to expedite permanency
- Expanded permanency options available to include permanent guardianship and APPLA (Another Permanency Planned Living Arrangement)

NOTE: Before using an APPLA permanency plan, the state agency must document and present to the court ***compelling reasons*** why a more permanent placement option is not available to the child.

FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008 (Pub. L. No. 110-351)

The purpose of Fostering Connections was to maintain a child's ties with family, expedite permanency, and achieve better outcomes for youth once they leave the foster care system. States must "opt-in" to many of the provisions contained in this Act. Some specific provisions include:

- Allows states to establish a subsidized kinship guardianship program
- Provides for matching grants to assist state agencies with "family finding" efforts
- State agencies must notify adult relatives within 30 days of a child's removal
- Allows states to waive non-safety licensing rules for relative placements
- Allows states to extend foster care to youth up to age 21

- Requires that state agencies develop a transition plan for youth within 90 days of their exit (either 18 or 21) from the foster care system
- Educational stability – state agencies must take the child's education into account when making placement changes and must work with the school system to ensure children can remain in their home school
- State agencies have to make reasonable efforts to place siblings together and if siblings are not placed together, the agency must facilitate frequent visitation or other on-going interaction
- Allows Tribes to develop their own plans in order to be eligible for federal funds
- Increases adoption incentive payments to states.

THE FOSTER CARE INDEPENDENCE ACT of 1999 (Chaffee Act) Pub. L. No. 106-169

Increased funding to enable states to design, conduct, and evaluate independent living programs with the purpose of assisting youth as they transition out of foster care. Encouraged states to create programs that support youth by addressing finances, housing, health, education, and employment. The bill also increases support to youth aging out of foster care in other ways, such as allowing states to provide Medicaid coverage to youth 18-21 who are in foster care on their 18th birthday.

ICWA (Indian Child Welfare Act) 25 U.S.C. §§ 1901-63

Enacted in 1978 to address the disproportionate removal of American Indian children from their homes and placed into white foster homes or institutions for adoption by white families. ICWA was an attempt to remedy the unwarranted removals of Indian children and in doing so imposed greater mandates on the state.

Major provisions of ICWA include:

- **Application**: ICWA applies to cases in State courts only (not Tribal courts) in specific situations: (1) child custody proceedings - foster care placement, termination of parental rights, pre-adoptive and adoptive placements (2) involving an Indian child - any person under the age of 18 who is a member of an Indian tribe or the biological child of a member of an Indian tribe and eligible for membership in an Indian tribe.
- **Jurisdiction**: Where a Native child resides or is domiciled on his/her reservation or is the ward of the tribal court, only the Tribal court may properly exercise jurisdiction. For all other children, the State court may exercise jurisdiction, but the State court is required

to transfer the case to the Tribal court if the Tribe or parents requests transfer except when there is "good cause" not to transfer.

- **Placement**: No placement (away from the biological parents, adoptive parents, or Indian custodian) can be made without (1) **active efforts** to preserve the family through remedial and rehabilitative services designed to prevent the breakup of the Indian family; and (2) **clear and convincing evidence** that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. A qualified expert witness is required to establish the clear and convincing standard. The social and cultural standards of the Indian community in which the parent or extended family resides must be applied to placements.

- **Placement Preferences:**

    A. **Foster Care Placement**:

1. With a member of the child's extended family; 2. In a foster home licensed, approved or specified by the child's Tribe; 3. In an Indian foster home licensed or approved by an authorized non-Indian licensing authority (such as the state or a private licensing agency); 4. In an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs.

    B. **Adoptive Placement**:

        1. With a member of the child's extended family; 2. With other members of the child's Tribe; or 3. With another Indian family.

- **Termination of Parental Rights:** In proceedings to terminate parental rights to an Indian child, there must be: (1) evidence **beyond a reasonable doubt** that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical harm to the child; (2) a qualified expert witness.

NOTE: Failing to follow the requirement of ICWA may be grounds for a tribe, parent, Indian custodian or a child to ask the court to vacate court orders and require new proceedings.

- **NEW ICWA GUIDELINES/PROPOSED REGULATIONS:** The Bureau of Indian Affairs (BIA) issued new ICWA guidelines effective February 25, 2015. Subsequently, on March 18, 2015, the BIA announced a proposed rule to govern the implementation of ICWA, based largely on the guidelines. The intent of these guidelines is to clarify and strengthen ICWA's requirement to "ensure that Indian families and tribal communities do not face the unwarranted removal of their youngest and most vulnerable members." Some

provisions that specifically relates to GAL practice are as follows:

- GAL must certify on the record whether s/he has discovered or knows of any information that suggests or indicated the child is an Indian child.
- Active Efforts are defined and specific examples are given
- Requirements of a “qualified expert” are provided
- Emergency removal is allowed only as necessary to prevent imminent physical damage or harm to the child and the court must immediately terminate the emergency removal as soon as it receives sufficient evidence that the emergency has ended

ADA (Americans with Disabilities Act)

Enacted to address discrimination against persons with physical and mental disabilities. Relates to child welfare law specifically by guaranteeing that all litigants have reasonable access to legal proceedings and to ensure that foster children are not denied services based on a disability.

IDEA (Individuals with Disabilities Education Act)

Enacted in 1975 to ensure that children with disabilities have access to a free appropriate public education that is tailored to their individual needs. There are 6 main principles:

- Every child is entitled to a free and appropriate public education (FAPE).
- When a school professional believes that a student between the ages of 3 and 21 may have a disability that has substantial impact on the student's learning or behavior, the student is entitled to an evaluation in all areas related to the suspected disability.
- Creation of an Individualized Education Plan (IEP). The purpose of the IEP is to lay out a series of specific actions and steps through which educational providers, parents and the student themselves may reach the child's stated goals.
- The education and services for children with disabilities must be provided in the least restrictive environment, and if possible, those children be placed in a "typical" education setting with non-disabled students.
- Input of the child and their parents must be taken into account in the education process.
- When a parent feels that an IEP is inappropriate for their child, or that their child is not receiving needed services, they have the right under IDEA to challenge their child's

treatment (due process).

Additionally, it requires transition planning in which children are actively engaged.

MEPA (Multi-Ethnic Placement Act)

Enacted in 1994. Major provisions include:

1. Prohibits discrimination on the basis of race, color or national origin in foster care licensing and foster and adoptive placements
2. Requires diligent recruitment of foster/adoptive parents that "reflect the ethnic and racial diversity of children in the state for whom homes are needed".
3. Prohibits any delay in placement based on race, color, or national origin
4. Prohibits states from making placement decisions ***solely*** on the basis of race
5. Does not apply to ICWA cases

HIPAA (Health Insurance Portability and Accountability Act)

This Act and the accompanying regulations provide national standards for protecting health information. It regulates how others may use and disclose health information, gives patients more protection and control over their records and sets boundaries for the release and use of health records. Doctors, clinics and psychologists are among the entities covered by the Act. Generally, under the Act, health information may be disclosed only with the consent of the patient.

The Child Abuse Exception:

- Although HIPAA generally overrides state laws, *HIPAA rules do not apply where "state law . . . provides for the reporting of disease or injury, child abuse, birth, or death . . ."* (Section 160.203[c]). Therefore, pursuant to state statute (C.R.S. § 19-1-307), HIPPA allows disclosure to child protection caseworkers where child abuse or neglect is suspected.
- Where disclosure is not otherwise required or permitted, a court may issue a subpoena or order release after the victim/child is given notice and an opportunity to object. Even in this situation, since the victim is a child and notice would otherwise be given to the parent responsible for the abuse or neglect, the notice generally need not be given in advance.

- Disclosure is permitted when consistent with legal and ethical practices, disclosure is necessary "to prevent or lessen a serious and imminent threat to the health or safety of a person or the public."

Medical records need not be released to a dangerous parent when there is a "reasonable belief" that the child "has been or may be subjected to . . . abuse or neglect . . ., or when release would endanger the child.

ICPC (Interstate Compact on the Placement of Children)

Uniform law enacted by all 50 states to ensure that ensure that children placed *out of their home state* receive the same protections and services that would be provided, if they remained in their home state. ICPC applies to the following 4 types of placements:

- Placement preliminary to an adoption (independent, private or public adoptions)
- Licensed or approved foster homes (placement with related or unrelated caregivers)
- Placements with parents and relatives when a parent or relative is not making the placement as defined in Article VIII (a) "Limitations"
- Group homes/residential placement of all children, including adjudicated delinquents in institutions in other states

NOTE: The ICPC process is very bureaucratic and can take weeks or months depending on the particular states involved. However, an expedited ICPC evaluation can and should be requested if the child meets any of the following requirements: 1. the child is under two years of age; or 2. the child is in emergency shelter; or 3. the child has spent a substantial amount of time in the home of the proposed placement recipient.

USA (Uninterrupted Scholars Act of 2013) Public Law No: 112-278

Amends provisions of the Family Educational Rights and Privacy Act of 1974 that prohibit the Department of Education from funding educational agencies or institutions that release student educational records (or personally identifiable information other than certain directory information) to any individual, agency, or organization without written parental consent.

Expands the list of organizations exempt from such prohibitions (thereby permitting the educational agencies or institutions participating in a Department of Education program to release records or identifiable information to such organizations without parental consent) to include an agency caseworker or other representative of a state or local child welfare agency or

tribal organization authorized to access a student's case plan when such agencies or organizations are legally responsible for the care and protection of the student.

* Permits the release of such records and information without additional notice to parents and students when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters and a court order has already been issued in the context of that proceeding.

PREVENTING SEX TRAFFICKING & STRENGTHENING FAMILIES ACT – Public Law No. 113-183

Signed into law in September 2014, it seeks to protect foster children and to improve the child welfare system as it specifically relates to establishing normalcy and permanency for children.

Specific provisions include:

TITLE I:

- Requires that child welfare agencies create policies and procedures by September 29, 2015 for **identifying**, **documenting** and **determining** appropriate services for children over whom they have legal responsibility to either provide care OR supervision (an open case in which they have not removed the child from the home) and who the state has **reasonable cause** to believe are victims or are at risk of becoming victims of sex trafficking.
- Requires that child welfare agencies immediately (within 24 hours) report children identified as sex trafficking victims to law enforcement
- Requires child welfare agencies to **develop** and **implement** plans to expeditiously locate children missing from foster care
- Allows foster parents and other trained designated officials to make parental decisions, applying the **reasonable and prudent parent standard**, that maintain the health, safety, and best interest of the child, including decisions about participation in extracurricular, enrichment, cultural and social activities
- In FY 2020, provides additional $3 million under Title IV-E ILP to support participation in age-appropriate activities for youth likely to age out of foster care
- Eliminates APPLA for children under 16 years of age (effective 9/29/15 for child welfare agencies and 9/29/17 for children under the responsibility of their tribe)

- For children with an APPLA plan, it requires additional case plan and case review requirements
- Requires that the child welfare agency engage children who are 14 years and older in their case plan development and modification and allows the child to self-select two individuals to be a part of their case planning team (Department retains veto power if it determines that the individual chosen by the youth would not act in the child's best interest)
- Requires the child welfare agency to include in the child's case plan a "list of rights" which outlines their rights with respect to education, health, visitation, and court participation
- Requires the child welfare agency to ensure that children who are aging out and who have been in care for 6 months or longer receive a copy of their birth certificate, a social security card, health insurance information, medical records, and a driver's license or identification card

TITLE II:

- Extends adoption incentive program through FY 2016
- Creates four incentive categories
- Clarifies that states must use adoption and guardianship incentive payments to supplement, as opposed to supplant, other funds already being used under either IV-E or IV-B
- Allows a successor guardian to receive kinship guardianship assistance in the event of death or incapacity of the original relative guardian
- Requires that all parents of siblings are identified and notified within 30 days after the removal of a child from the parents (this includes siblings whose parent's rights were terminated)

2. Constitutional Law Cases

In re Gault, 387 U.S. 1 (1967)

1. **At Issue:** Whether children have due process rights when accused of violating the law
2. **Held:** 14th Amendment Due Process also applies to children in delinquency cases.

3. **Note** – this court did not address child neglect cases. However, it created an argument that Mathews v. Eldridge 3 part test to determine whether state action deprived citizen of due process also applies to children in neglect cases. U.S. N.D. GA applied this test in Kenny A to determine that children have a constitutional right to counsel when the state seeks to remove the child from his/her parent's custody.

Meyer v. Nebraska, 262 U.S. 390 (1923)

1. **At Issue**: State statute prohibited teaching languages other than English to those who had not completed 8th grade.

2. **Principle:** parents have a right to control their child's education.

3. **Court held**: Statute that prohibited teaching foreign language to students who had not completed 8th grade was unconstitutional – concept of "liberty" also includes right to acquire useful knowledge, establish a home and bring up children. Mere knowledge of german language not harmful.

Pierce v Society of Sisters, 268 U.S. 510 (1925)

1. **At Issue**: State Statute required children to attend public school

2. **Principle**: parents have the right to decide which school their child attends. In this case the statute said that children had to attend public school.

3. **Court held**: Compulsory education law cannot dictate which school a child attends. The statute unreasonably infringed on the parent's right to direct the upbringing of his/her children.

Prince v. Mass., 321 U.S. 158 (1944)

1. **At Issue**: Child's guardian was convicted of violating child labor laws for allowing child to sell Jehovah's Witness pamphlets on the street.

2. **Principle**: rights of parenthood are not beyond limitation. Child's guardian was criminally convicted of violating the child labor laws because the child was selling Jehovah's Witness pamphlets in the street.

3. **Court held**: state law restricting child labor does not violate a parent's first amendment right to religious freedom. State has a wide range of power for limiting parental freedom.

Troxel v. Granville, 530 U.S. 57 (2000)

1. **At Issue**: State Statute allowed anyone to petition for visitation at any time, as long as it was in the child's best interest.

2. **Principle:** Fit parents act in children's best interest. Statute allowed anyone to petition for visitation as long as it was in the best interest of the child.

3. **Court held**: 3rd party visitation statute is too broad – only standard is best interest of the child which doesn't give any deference to the parent's wishes thereby violating the parents' liberty interest in the care, custody and control of their children.

3. Colorado State Law

C.R.S. §19-1-102 :

The purposes of the Children's Code are set forth at CRS §19-1-102(1) as follows:

1. To secure for each child subject to these provisions such care and guidance, preferably in his or her own home, as will best serve his welfare and the interests of society;

2. To preserve and strengthen family ties whenever possible, including improvement of home environment;

3. To remove a child from the custody of his or her parents only when his welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with all possible speed to a legal determination that will best serve the best interests of the child; and

4. To secure for any child removed from the custody of his or her parents the necessary care, guidance, and discipline to assist him or her in becoming a responsible and productive member of society.

C.R.S. § 19-1-111. Appointment of guardian ad litem

(1) The court **shall appoint a guardian ad litem** for the child in all dependency or neglect cases under this title.

(2) The court **may appoint a guardian ad litem** in the following cases:

(a) For a child in a delinquency proceeding where:

(I) No parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent appears at the first or any subsequent hearing in the case;

(II) The court finds that a conflict of interest exists between the child and parent, guardian, legal custodian, custodian, person to whom parental responsibilities have been allocated, relative, stepparent, or spousal equivalent; or

(III) The court makes specific findings that the appointment of a guardian ad litem is necessary to serve the best interests of the child and such specific findings are included in the court's order of appointment.

C.R.S. § 19-3-203. Guardian ad litem

(1) Upon the filing of a petition under section 19-3-502 that alleges abuse or neglect of a minor child, the court shall appoint a guardian ad litem. Nothing in this section shall limit the power of the court to appoint a guardian ad litem prior to the filing of a petition for good cause.

(2) The guardian ad litem shall be provided with all reports relevant to a case submitted to or made by any agency or person pursuant to this article, including reports of examination of the child or persons responsible for the neglect or dependency of the child. The court and social workers assigned to the case shall keep the guardian ad litem apprised of significant developments in the case, particularly prior to further neglect or dependency court appearances.

(3) The guardian ad litem shall be charged in general with the representation of the child's interests. To that end, the guardian ad litem shall make such further investigations as the guardian ad litem deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine the guardian ad litem's own witnesses, make recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the guardian ad litem, if in the best interest of the child, shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family or, if reunification is not possible, to find another safe and permanent living arrangement for the child. In determining whether said reasonable efforts are made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be

the paramount concern
C.R.S. § 19-3-100.5 – Legislative Declaration regarding Reasonable Efforts: (1) The general assembly hereby finds and declares that the stability and preservation of the families of this state and the safety and protection of children are matters of statewide concern. The general assembly finds that the federal "Adoption Assistance and Child Welfare Act of 1980", federal Public Law 96-272, requires that each state make a commitment to make "reasonable efforts" to prevent the placement of abused and neglected children out of the home and to reunify the family whenever appropriate. (2) The general assembly further finds that the federal "Adoption and Safe Families Act of 1997", federal Public Law 105-89, clarifies what constitutes "reasonable efforts" by decreeing that when deciding whether to make such efforts and in the process of making such efforts, the health and safety of the child is the paramount concern. This federal law further encourages expediting permanency planning for children in out-of-home placement by removing barriers to permanency and streamlining entitlement services. The law specifies that one of the goals of all placement decisions, whether leaving the child in the home or placing the child outside the home, is safety for the child. (3) The general assembly further finds that the implementation of the federal "Adoption Assistance and Child Welfare Act of 1980", federal Public Law 96-272, is not the exclusive responsibility of the state department of social services or of local departments of social services. Elected officials at the state and local levels must ensure that resources and services are available through state and local social services agencies and through the involvement of the resources of public and private sources. Judges, attorneys, and guardians ad litem must be encouraged to take independent responsibility to ensure that "reasonable efforts" to prevent out-of-home placements have been made only when appropriate, that permanency occurs for children in foster care, and that safe child placements occur in each case (4) Therefore, in order to carry out the requirements addressed in this section, and to decrease the need for out-of-home placement, the general assembly shall define "reasonable efforts" and identify the services and processes that must be in place to ensure that "reasonable efforts" have been made. The general assembly shall provide that "reasonable efforts" are deemed to be met when a county or city and county provides services in accordance with section 19-3-208.

C.R.S. §19-1-103 (89) – Reasonable Efforts Definition: "Reasonable efforts", as used in articles 1, 2, and 3 of this title, means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement. In determining whether it is appropriate to provide, purchase, or develop the supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child's home or to foster the safe reunification of a child with a child's family, as described in section 19-3-208, or whether it is appropriate to find and finalize an alternative permanent plan for a child, and in making reasonable efforts, the child's health and safety shall be the paramount concern. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (89). Nothing in this subsection (89) shall be construed to conflict with federal law.

C.R.S. §19-3-208 - Services County required to provide:

(1) Each county or city and county shall provide a set of services, as defined in subsection (2) of this section, to children who are in out-of-home placement or meet the social services out-of-home placement criteria and to their families in the state of Colorado eligible for such services as determined necessary by an assessment and a case plan. A county or city and county may enter into an agreement with any other county, city and county, or group of counties to share in the provision of these services. Each county, city and county, or group of counties may enter into contracts with private entities for the provision of these services. Each county or city and county shall have a process in place whereby services can readily be accessed by children and families determined to be in need of such services described in subsection (2) of this section. For the purposes of this subsection (1), the requirements of providing services or a process shall be made available based upon the state's capacity to increase federal funding or any other moneys appropriated for these services.

(2) (a) "Services" shall be designed to accomplish the following goals:

(I) Promote the immediate health, safety, and well-being of children eligible for these services based upon the case assessment and individual case plan;
(II) Reduce the risk of future maltreatment of children who have previously been abused or neglected and protect the siblings of such children and other children who are members of the same household who may be subjected to maltreatment;
(III) Avoid the unnecessary placement of children into foster care resulting from child abuse and neglect, voluntary decisions by families, or the commission of status offenses;
(IV) Facilitate, if appropriate, the speedy reunification of parents with any of their children who

have been placed in out-of-home placement;
(V) Ensure that the placement of a child is neither delayed nor denied due to consideration of the race, color, or national origin of the child or any other person unless such consideration is permitted pursuant to federal law; and
(VI) Promote the best interests of the child.

(b) The following services shall be available and provided, as determined necessary and appropriate by individual case plans, commencing on or after July 1, 1993:

(I) Screening, assessments, and individual case plans;
(II) Home-based family and crisis counseling;
(III) Information and referral services to available public and private assistance resources;
(IV) Visitation services for parents with children in out-of-home placement; and
(V) Placement services including foster care and emergency shelter.

(c) (Deleted by amendment, L. 94, p. 1054, § 4, effective May 4, 1994.)
(d) The following services shall be made available and provided based upon the state's capacity to increase federal funding or any other moneys appropriated for these services and as determined necessary and appropriate by individual case plans:

(I) Transportation to these services when other appropriate transportation is not available;
(II) Child care as needed according to a case plan, when other child care is not available;
(III) In-home supportive homemaker services;
(IV) Diagnostic, mental health, and health care services;
(V) Drug and alcohol treatment services;
(VI) After care services to prevent a return to out-of-home placement;
(VII) Family support services while a child is in out-of-home placement including home-based services, family counseling, and placement alternative services;
(VIII) Financial services in order to prevent placement; and
(IX) Family preservation services, which are brief, comprehensive, and intensive services provided to prevent the out-of-home placement of children or to promote the safe return of children to the home.

(e) The department of human services may promulgate such rules and regulations as are necessary to implement the provision of services pursuant to this article.
(f) It is the intent of the general assembly to use existing general fund moneys which have serviced the programs described in this subsection (2) to access federal funds.

VOLUME 7 – Colorado Department of Human Services

The majority of Colorado regulations regarding foster children are contained in the CDHS Volume 7 rules and regulations. This is available on the CDHS website as a searchable document. Volume 7 is a powerful advocacy tool in that it allows GALs to use the Department's regulations as a baseline for ensuring that the Department is meeting its own standards in regard to the provision of services to children. Volume 7 covers a host of topics from pre-placement to reasonable efforts, to post-adoption procedures. It is highly recommended that you utilize Volume 7 in your advocacy for your child client. Some specific provisions include:

- **7.301.24 Family Service Plan Out-of-Home Placement Documentation (Reasonable Efforts)**

The Agency must document in the Family Service plan, among other things, that reasonable efforts have been made to maintain the child in the home, or prevent or eliminate the need for removal of the child from the home, or make it possible for the child to return to the home; or, when applicable, documentation of the circumstances that exist in which reasonable efforts to prevent removal or reunite the child and the family are not required (see Section 7.304.53, B, 3)

- **7.301.24 Family Service Plan Out-of-Home Placement Documentation (Permanency)**

The specified permanency goal for the child shall be based on the individual needs and best interests of the child. Permanency goals shall include one of the following:
remain home,
return home,
permanent placement with a relative through adoption,
permanent placement with a relative through legal guardianship or permanent custody,
adoption (non-relative),
legal guardianship/permanent custody (non-relative),
other planned permanent living arrangement through emancipation,
other planned permanent living arrangement through relative long term foster care,
other planned permanent living arrangement through non-relative long term foster care.