

ACF

Administration for Children and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

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PROGRAM INSTRUCTION

TO: State and Territorial Agencies Administering or Supervising the Administration of Title IV-B and Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: NEW LEGISLATION -- Public Law 105-89, The Adoption and Safe Families Act of 1997

LEGAL AND RELATED REFERENCES: The Adoption and Safe Families Act of 1997 (Public Law 105-89), Titles IV-B and IV-E, Section 403(b), Section 453, and Section 1130(a) of the Social Security Act

PURPOSE: The purpose of this Program Instruction (PI) is to inform States of new legislation amending titles IV-B and IV-E of the Social Security Act and provide guidance for implementing the new law. This PI also provides the effective dates for implementing Public Law 105-89 and early notification of the impact of the new law on State Automated Child Welfare Information Systems (SACWIS).

OVERVIEW:

This Program Instruction transmits Public Law 105-89 and a compilation of titles IV-B and IV-E, as amended by the Adoption and Safe Families Act of 1997 (ASFA). It also provides guidance for States' early implementation of the law. The PI is divided into three parts: Part I contains principles to assist States in understanding the new provisions and integrating the law into ongoing reforms of the child welfare system; Part II stipulates the effective dates of the new legislation; and Part III discusses how the law may impact States' SACWIS and other information systems.

INFORMATION:

PART I. THE ADOPTION AND SAFE FAMILIES ACT OF 1997

On November 19, 1997, the President signed into law the Adoption and Safe Families Act of 1997. This legislation, passed by the Congress with overwhelming bipartisan support, represents an important landmark in Federal child welfare law. It establishes unequivocally that our national goals for children in the child welfare system are **safety, permanency, and well-being**. The passage of this new law gives us an unprecedented opportunity to build on the reforms of the child welfare system that have begun in recent years in order to make the system more responsive to the multiple, and often complex, needs of children and families. The law reaffirms the need to forge linkages between the child welfare system and other systems of support for families, as well as between the child welfare system and the courts, to ensure the safety and well-being of children and their families. The law also gives renewed impetus to dismantle the myriad barriers that may exist between children waiting in foster care and permanency. By implementing the new law in the context of an ongoing commitment to strengthening all aspects of the child welfare system, we will make a meaningful difference in the lives of children in foster care and in the lives of children who must come into contact with the child welfare system in the future.

ASFA embodies a number of key principles that must be considered in order to implement the law:

- **The safety of children is the paramount concern that must guide all child welfare services.** The new law requires that child safety be the paramount concern when making service provision, placement and permanency planning decisions. The law reaffirms the importance of making reasonable efforts to preserve and reunify families, but also now exemplifies when States are not required to make efforts to keep children with their parents, when doing so places a child's safety in jeopardy.
- **Foster care is a temporary setting and not a place for children to grow up.** To ensure that the system respects a child's developmental needs and sense of time, the law includes provisions that shorten the timeframe for making permanency planning decisions, and that establish a timeframe for initiating proceedings to terminate parental rights. The law also strongly promotes the timely adoption of children who cannot return safely to their own homes.
- **Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.** The enactment of a legal framework requiring permanency decisions to be made more promptly heightens the importance of providing quality services as quickly as possible to enable families in crisis to address problems. It is only when timely and intensive services are provided to families, that agencies and courts can make informed decisions about parents' ability to protect and care for their children.

- **The child welfare system must focus on results and accountability.** The law makes it clear that it is no longer enough to ensure that procedural safeguards are met. It is critical that child welfare services lead to positive results. The law requires numerous tools for focusing attention on results, including an annual report on State performance; the creation of an adoption incentive payment for States designed to support the President's goal of doubling the annual number of children who are adopted or permanently placed by the year 2002; and a requirement for the Department to study and make recommendations regarding additional performance-based financial incentives in child welfare.
- **Innovative approaches are needed to achieve the goals of safety, permanency and well-being.** The law recognizes that we do not yet have all of the solutions to achieve our goals. By expanding the authority for child welfare demonstration waivers, the law provides a mechanism to allow States greater flexibility to develop innovative strategies to achieve positive results for children and families.

There is much to be done in the coming months as we work together to implement this multi-faceted new law. This Program Instruction is the first of the communications that the Department will send to assist the States in meeting the requirements of ASFA. We will also be consulting with State representatives and other experts in the field to help guide our work in implementing the new law. Working together, we have the opportunity to dramatically improve the lives of children and families.

PART II. EFFECTIVE DATES FOR IMPLEMENTING PUBLIC LAW 105-89:

General Effective Date of Public Law 105-89

The effective date of Public Law 105-89 is November 19, 1997. States are expected to comply with the provisions of the law as of that date, with the exceptions noted below.

Exceptions to Effective Date: Determination of Required State Legislation

A limited period of delay is permitted when the Secretary determines that a State must enact legislation to comply with certain State plan requirements. Section 501(b) of Public Law 105-89 authorizes the Secretary to determine those State plan requirements that will necessitate State legislation.

Delayed Effective Date

A "delayed effective date" will apply only to those requirements that the Secretary has determined require State legislation. The "delayed effective date" is defined in Section 501(b) as the beginning of the calendar quarter following the close of the State's first regular legislative session.

Following is a list of new or amended State plan requirements contained in titles IV-B and IV-E, as amended by ASFA:

Title IV-B, Subparts 1 and 2:

- Including safety in case plan and case review requirements [section 422(b)(10)]
- Developing plans to facilitate adoptions across State and county jurisdictions [section 422(b)(12)]
- Requiring assurances that the safety of children shall be of the paramount concern [section 432(a)(9)]

Title IV-E:

- Clarification of the reasonable efforts requirement [section 471(a)(15)]
- Criminal record checks for prospective foster and adoptive parents [section 471(a)(20)]
- Health insurance coverage for children with special needs [section 471(a)(21)]
- State standards to ensure quality services for children in foster care [section 471(a)(22)]
- State requirement to initiate or join proceedings within a specified time to terminate parental rights for certain children in foster care [section 475(5)(E) and (F)]*

Transition Rule

The requirement in section 475(5)(E) and (F) of the Act to initiate proceedings to terminate parental rights (TPR) is phased in over time according to the transition rule in section 103(c) of ASFA. This transition rule is separate from the "delayed effective date" described above. Separate guidance on implementing this transition will be forthcoming to the Regional Offices and States.

Action Required

The Administration for Children and Families (ACF) Regional Offices, on behalf of the Secretary, and based on the State certification will determine where State legislation is necessary to comply with title IV-B and title IV-E State plan requirements. States that require legislation should submit the attached certification indicating those State plan requirements that will necessitate State legislation. The certification must include the estimated "delayed effective date" in accordance with Section 501(b) of ASFA. States that do not require any legislation must also submit the certification indicating that State legislation is not necessary and that a "delayed effective date" is not applicable. All certifications must be signed by the designated State agency official and submitted to the ACF Regional Office no later than February 13, 1998.

PART III. POTENTIAL IMPACT OF PUBLIC LAW 105-89 ON SACWIS:

The intent of this section is to advise States of potential implications of ASFA on their SACWIS **and not to imply that any action must to be taken by the States at this time**. The SACWIS functional requirements delineated in ACF's Action Transmittal ACF-OISM-001 (2/24/95) remain in effect.

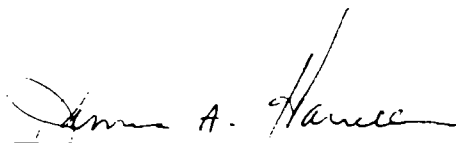
We strongly encourage the State program and system staff to discuss the possible implications for the State's SACWIS as the State implements ASFA.

* The requirement to initiate or join proceedings to terminate parental rights is treated as a State plan requirement under section 103(c)(4) of Public Law 105-89.

Listed below are sections of ASFA that **may** have possible implications for a State's SACWIS. This list may not identify every conceivable consequence of the new law on SACWIS:

1. Section 101: SACWIS may need to be modified to appropriately record and track the "reasonable efforts" requirements identified in subsection (A), the "aggravated" or other circumstances identified in subsection (D) and the timely completion of the permanency hearing identified in subsection (E). [title IV-E, sections 471(a)(15) and 475(5)(C)]
2. Section 103: SACWIS may need to be modified to track the "total" number of months a child has been in foster care to conform with section 475(5)(E) and determine the beginning of foster care, as defined in section 475(5)(F). Also, SACWIS may need to be modified to assist the State in implementing the transition rule outlined in section 103(c). States should note that the "beginning of foster care" as defined in section 475(5)(F) should not be confused with the AFCARS data element 21, "date of latest removal from the home," which remains the same as defined in 45 CFR 1355.40, Appendix A. [title IV-E, section 475(5)(E) and (F)]
3. Section 104: The notice generation function of a State's SACWIS may need to be expanded to ensure that the applicable parties "are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child." Considering that SACWIS is currently required to generate notices, we would not expect this to cause a significant change to the design of the system. [title IV-E, section 475(5)(G)]
4. Section 105: If the State child welfare agency elects to use the Federal Parent Locator Service (FPLS) for child welfare services, it may need to modify its current interface with the State's title IV-D Child Support Enforcement system. We would expect that the benefits of pursuing this option would include enhancing a State's capacity to identify other family caretakers with whom the child could be placed, and expediting termination of parental rights when reunification is not an option and a suitable relative placement is not available. [title IV-D, section 453(a)(2),(c)]
5. Section 106: If a State chooses to conduct criminal background checks on foster and adoptive parents, and the State uses its SACWIS to process foster care or adoptive home applications, SACWIS may be modified to record the results of the background check. [title IV-E, section 471(a)(20)]
6. Section 107: In the case of a child for whom the permanency plan is adoption or placement in another permanent home, SACWIS may need to be modified to appropriately record and track "the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child ... and to finalize the adoption or legal guardianship." [title IV-E, section 475(1)(E)]
7. Section 307: SACWIS may need to be modified to maintain the prior eligibility information on behalf of children with special needs whose initial adoption has been dissolved or whose adoptive parents have died. [title IV-E, section 473(a)(2)]

INQUIRIES TO: ACF Regional Offices



James A. Harrell
Deputy Commissioner
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Attachments: A: The Adoption and Safe Families Act of 1997 (Public Law 105-89)
B: Compilation of Titles IV-B and IV-E of the Social Security Act
C: Certification of Required State Legislation
D: ACF Regional Office list

PUBLIC LAW 105-89—NOV. 19, 1997

111 STAT. 2115

Public Law 105-89
105th Congress

An Act

To promote the adoption of children in foster care.

Nov. 19, 1997

[H.R. 867]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Adoption and
Safe Families Act
of 1997.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 1305
note.

(a) **SHORT TITLE.**—This Act may be cited as the “Adoption and Safe Families Act of 1997”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS

- Sec. 101. Clarification of the reasonable efforts requirement.
- Sec. 102. Including safety in case plan and case review system requirements.
- Sec. 103. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.
- Sec. 104. Notice of reviews and hearings; opportunity to be heard.
- Sec. 105. Use of the Federal Parent Locator Service for child welfare services.
- Sec. 106. Criminal records checks for prospective foster and adoptive parents.
- Sec. 107. Documentation of efforts for adoption or location of a permanent home.

TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

- Sec. 201. Adoption incentive payments.
- Sec. 202. Adoptions across State and county jurisdictions.
- Sec. 203. Performance of States in protecting children.

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

- Sec. 301. Authority to approve more child protection demonstration projects.
- Sec. 302. Permanency hearings.
- Sec. 303. Kinship care.
- Sec. 304. Clarification of eligible population for independent living services.
- Sec. 305. Reauthorization and expansion of family preservation and support services.
- Sec. 306. Health insurance coverage for children with special needs.
- Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been dissolved.
- Sec. 308. State standards to ensure quality services for children in foster care.

TITLE IV—MISCELLANEOUS

- Sec. 401. Preservation of reasonable parenting.
- Sec. 402. Reporting requirements.
- Sec. 403. Sense of Congress regarding standby guardianship.
- Sec. 404. Temporary adjustment of Contingency Fund for State Welfare Programs.
- Sec. 405. Coordination of substance abuse and child protection services.
- Sec. 406. Purchase of American-made equipment and products.

TITLE V—EFFECTIVE DATE

- Sec. 501. Effective date.

TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS

SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS REQUIREMENT.

(a) IN GENERAL.—Section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) is amended to read as follows:

“(15) provides that—

“(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child’s health and safety shall be the paramount concern;

“(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

“(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child’s home; and

“(ii) to make it possible for a child to safely return to the child’s home;

“(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;

“(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that—

“(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

“(ii) the parent has—

“(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

“(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

“(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

“(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

“(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

“(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)—

“(i) a permanency hearing (as described in section 475(5)(C)) shall be held for the child within 30 days after the determination; and

“(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

“(F) reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described in subparagraph (B);”.

(b) **DEFINITION OF LEGAL GUARDIANSHIP.**—Section 475 of such Act (42 U.S.C. 675) is amended by adding at the end the following:

“(7) The term ‘legal guardianship’ means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term ‘legal guardian’ means the caretaker in such a relationship.”.

(c) **CONFORMING AMENDMENT.**—Section 472(a)(1) of such Act (42 U.S.C. 672(a)(1)) is amended by inserting “for a child” before “have been made”.

(d) **RULE OF CONSTRUCTION.**—Part E of title IV of such Act (42 U.S.C. 670–679) is amended by inserting after section 477 the following:

“**SEC. 478. RULE OF CONSTRUCTION.**

42 USC 678.

“Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).”.

SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended—

(1) in section 422(b)(10)(B)—

42 USC 622.

(A) in clause (iii)(I), by inserting “safe and” after “where”; and

(B) in clause (iv), by inserting “safely” after “remain”; and

(2) in section 475—

42 USC 675.

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting “safety and” after “discussion of the”; and

(ii) in subparagraph (B)—

(I) by inserting “safe and” after “child receives”; and

(II) by inserting “safe” after “return of the child to his own”; and

(B) in paragraph (5)—

(i) in subparagraph (A), in the matter preceding clause (i), by inserting “a safe setting that is” after “placement in”; and

(ii) in subparagraph (B)—

(I) by inserting “the safety of the child,” after “determine”; and

(II) by inserting “and safely maintained in” after “returned to”.

SEC. 103. STATES REQUIRED TO INITIATE OR JOIN PROCEEDINGS TO TERMINATE PARENTAL RIGHTS FOR CERTAIN CHILDREN IN FOSTER CARE.

(a) **REQUIREMENT FOR PROCEEDINGS.**—Section 475(5) of the Social Security Act (42 U.S.C. 675(5)) is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting “; and”; and

(3) by adding at the end the following:

“(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child’s parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

“(i) at the option of the State, the child is being cared for by a relative;

“(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

“(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child’s home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child.”.

(b) **DETERMINATION OF BEGINNING OF FOSTER CARE.**—Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by subsection (a), is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by adding at the end the following:

“(F) a child shall be considered to have entered foster care on the earlier of—

“(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

“(ii) the date that is 60 days after the date on which the child is removed from the home.”.

(c) TRANSITION RULES.—

42 USC 675 note.

(1) NEW FOSTER CHILDREN.—In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act) under the responsibility of a State after the date of the enactment of this Act—

(A) if the State comes into compliance with the amendments made by subsection (a) of this section before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

(2) CURRENT FOSTER CHILDREN.—In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall—

(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than $\frac{1}{3}$ of such children as the State shall select, giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act) is adoption and children who have been in foster care for the greatest length of time;

(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than $\frac{2}{3}$ of such children as the State shall select; and

(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS.—For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS.—For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of

42 USC 675 note.

parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experienced multiple foster care placements of varying durations.

SEC. 104. NOTICE OF REVIEWS AND HEARINGS; OPPORTUNITY TO BE HEARD.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by section 103, is amended—

- (1) by striking “and” at the end of subparagraph (E);
- (2) by striking the period at the end of subparagraph (F) and inserting “; and”; and
- (3) by adding at the end the following:

“(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.”.

SEC. 105. USE OF THE FEDERAL PARENT LOCATOR SERVICE FOR CHILD WELFARE SERVICES.

Section 453 of the Social Security Act (42 U.S.C. 653) is amended—

- (1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by inserting “or making or enforcing child custody or visitation orders,” after “obligations,”; and

- (B) in subparagraph (A)—

- (i) by striking “or” at the end of clause (ii);
- (ii) by striking the comma at the end of clause (iii) and inserting “; or”; and
- (iii) by inserting after clause (iii) the following:
“(iv) who has or may have parental rights with respect to a child,”; and

- (2) in subsection (c)—

- (A) by striking the period at the end of paragraph (3) and inserting “; and”; and
- (B) by adding at the end the following:

“(4) a State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E.”.

SEC. 106. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

- (1) by striking “and” at the end of paragraph (18);
- (2) by striking the period at the end of paragraph (19) and inserting “; and”; and
- (3) by adding at the end the following:
“(20)(A) unless an election provided for in subparagraph (B) is made with respect to the State, provides procedures

for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that—

“(i) in any case in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

“(ii) in any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

“(B) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State.”.

SEC. 107. DOCUMENTATION OF EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.

Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended—

(1) in the last sentence—

(A) by striking “the case plan must also include”; and

(B) by redesignating such sentence as subparagraph

(D) and indenting appropriately; and

(2) by adding at the end the following:

“(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.”.

TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 201. ADOPTION INCENTIVE PAYMENTS.

(a) IN GENERAL.—Part E of title IV of the Social Security Act (42 U.S.C. 670-679) is amended by inserting after section 473 the following:

42 USC 673b.

“SEC. 473A. ADOPTION INCENTIVE PAYMENTS.

“(a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

“(b) INCENTIVE-ELIGIBLE STATE.—A State is an incentive-eligible State for a fiscal year if—

“(1) the State has a plan approved under this part for the fiscal year;

“(2) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

“(3) the State is in compliance with subsection (c) for the fiscal year;

“(4) in the case of fiscal years 2001 and 2002, the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and

“(5) the fiscal year is any of fiscal years 1998 through 2002.

“(c) DATA REQUIREMENTS.—

“(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

“(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and

“(B) for each succeeding fiscal year that precedes the fiscal year.

“(2) DETERMINATION OF NUMBERS OF ADOPTIONS.—

“(A) DETERMINATIONS BASED ON AFCARS DATA.—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1995 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

“(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997.—For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source

or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

“(3) NO WAIVER OF AFCARS REQUIREMENTS.—This section shall not be construed to alter or affect any requirement of section 479 or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

“(d) ADOPTION INCENTIVE PAYMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

“(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

“(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the fiscal year.

“(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—For any fiscal year, if the total amount of adoption incentive payments otherwise payable under this section for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under this section for the fiscal year shall be—

“(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section for the fiscal year; multiplied by

“(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption incentive payments otherwise payable under this section for the fiscal year.

“(e) 2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

“(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

“(g) DEFINITIONS.—As used in this section:

“(1) FOSTER CHILD ADOPTION.—The term ‘foster child adoption’ means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

“(2) SPECIAL NEEDS ADOPTION.—The term ‘special needs adoption’ means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

“(3) BASE NUMBER OF FOSTER CHILD ADOPTIONS.—The term ‘base number of foster child adoptions for a State’ means—

"(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

"(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

"(4) BASE NUMBER OF SPECIAL NEEDS ADOPTIONS.—The term 'base number of special needs adoptions for a State' means—

"(A) with respect to fiscal year 1998, the average number of special needs adoptions in the State in fiscal years 1995, 1996, and 1997; and

"(B) with respect to any subsequent fiscal year, the number of special needs adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

"(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For grants under subsection (a), there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 1999 through 2003.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) are authorized to remain available until expended, but not after fiscal year 2003.

"(i) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

"(2) DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.—The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

"(A) The development of best practice guidelines for expediting termination of parental rights.

"(B) Models to encourage the use of concurrent planning.

"(C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

"(D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

"(E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.

"(F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

"(3) TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS.—Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

“(4) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 1998 through 2000.”.

(b) DISCRETIONARY CAP ADJUSTMENT FOR ADOPTION INCENTIVE PAYMENTS.—

(1) SECTION 251 AMENDMENT.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as amended by section 10203(a)(4) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subparagraph:

Ante, p. 698.

“(G) ADOPTION INCENTIVE PAYMENTS.—Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted that specifies an amount for adoption incentive payments pursuant to this part for the Department of Health and Human Services—

“(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed \$20,000,000; and

“(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.”.

(2) SECTION 314 AMENDMENT.—Section 314(b) of the Congressional Budget Act of 1974, as amended by section 10114(a) of the Balanced Budget Act of 1997, is amended—

Ante, p. 688.

(A) by striking “or” at the end of paragraph (4);

(B) by striking the period at the end of paragraph

(5) and inserting “; or”; and

(C) by adding at the end the following:

“(6) in the case of an amount for adoption incentive payments (as defined in section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed \$20,000,000.”.

SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) STATE PLAN FOR CHILD WELFARE SERVICES REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(12) contain assurances that the State shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.”.

(b) CONDITION OF ASSISTANCE.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

“(e) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has—

“(1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

42 USC 5111
note.

“(2) failed to grant an opportunity for a fair hearing, as described in section 471(a)(12), to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.”.

(c) STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES.—

(1) IN GENERAL.—The Comptroller General of the United States shall—

(A) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions; and

(B) examine, at a minimum, interjurisdictional adoption issues—

(i) concerning the recruitment of prospective adoptive families from other States and counties;

(ii) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

(iii) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

(iv) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children.

(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of the Congress a report that includes—

(A) the results of the study conducted under paragraph (1); and

(B) recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

SEC. 203. PERFORMANCE OF STATES IN PROTECTING CHILDREN.

(a) ANNUAL REPORT ON STATE PERFORMANCE.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

42 USC 679b.

“SEC. 479A. ANNUAL REPORT.

“The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall—

“(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;

“(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

“(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

“(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part; and

“(5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved.”.

(b) DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM.—The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall study, develop, and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on the State's performance under such a system. Such a system shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required by section 479A of the Social Security Act (as added by subsection (a) of this section) or on any proposed modifications of the annual report. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a progress report on the feasibility, timetable, and consultation process for conducting such a study. Not later than 15 months after such date of enactment, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the final report on a performance-based incentive system. The report may include other recommendations for restructuring the program and payments under parts B and E of title IV of the Social Security Act.

42 USC 679b
note.

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

SEC. 301. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9) is amended to read as follows:

“(a) AUTHORITY TO APPROVE DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

“(2) LIMITATION.—The Secretary may authorize not more than 10 demonstration projects under paragraph (1) in each of fiscal years 1998 through 2002.

“(3) CERTAIN TYPES OF PROPOSALS REQUIRED TO BE CONSIDERED.—

“(A) If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to identify and address barriers

that result in delays to adoptive placements for children in foster care.

“(B) If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to identify and address parental substance abuse problems that endanger children and result in the placement of children in foster care, including through the placement of children with their parents in residential treatment facilities (including residential treatment facilities for post-partum depression) that are specifically designed to serve parents and children together in order to promote family reunification and that can ensure the health and safety of the children in such placements.

“(C) If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to address kinship care.

“(4) LIMITATION ON ELIGIBILITY.—The Secretary may not authorize a State to conduct a demonstration project under this section if the State fails to provide health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents.

“(5) REQUIREMENT TO CONSIDER EFFECT OF PROJECT ON TERMS AND CONDITIONS OF CERTAIN COURT ORDERS.—In considering an application to conduct a demonstration project under this section that has been submitted by a State in which there is in effect a court order determining that the State’s child welfare program has failed to comply with the provisions of part B or E of title IV, or with the Constitution of the United States, the Secretary shall take into consideration the effect of approving the proposed project on the terms and conditions of the court order related to the failure to comply.”

42 USC 1320a-9
note.

(b) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed as affecting the terms and conditions of any demonstration project approved under section 1130 of the Social Security Act (42 U.S.C. 1320a-9) before the date of the enactment of this Act.

(c) AUTHORITY TO EXTEND DURATION OF DEMONSTRATIONS.—Section 1130(d) of such Act (42 U.S.C. 1320a-9(d)) is amended by inserting “, unless in the judgment of the Secretary, the demonstration project should be allowed to continue” before the period.

SEC. 302. PERMANENCY HEARINGS.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

- (1) by striking “dispositional” and inserting “permanency”;
- (2) by striking “eighteen” and inserting “12”;
- (3) by striking “original placement” and inserting “date the child is considered to have entered foster care (as determined under subparagraph (F))”; and

(4) by striking “future status of” and all that follows through “long term basis” and inserting “permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where

the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement”.

SEC. 303. KINSHIP CARE.

42 USC 5113
note.

(a) REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall—

(A) not later than June 1, 1998, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as “kinship care”); and

(B) not later than June 1, 1999, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall—

(i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and

(ii) include the policy recommendations of the Secretary with respect to the matter.

(2) REQUIRED CONTENTS.—Each report required by paragraph (1) shall—

(A) include, to the extent available for each State, information on—

(i) the policy of the State regarding kinship care;

(ii) the characteristics of the kinship care providers (including age, income, ethnicity, and race, and the relationship of the kinship care providers to the children);

(iii) the characteristics of the household of such providers (such as number of other persons in the household and family composition);

(iv) how much access to the child is afforded to the parent from whom the child has been removed;

(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

(vi) the permanency plan for the child and the actions being taken by the State to achieve the plan;

(vii) the services being provided to the parent from whom the child has been removed; and

(viii) the services being provided to the kinship care provider; and

(B) specifically note the circumstances or conditions under which children enter kinship care.

(b) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster

parents, relative caregivers, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, representatives of tribal governments and tribal courts, judges, and academic experts.

(2) DUTIES.—The advisory panel convened pursuant to paragraph (1) shall review the report prepared pursuant to subsection (a), and, not later than October 1, 1998, submit to the Secretary comments on the report.

SEC. 304. CLARIFICATION OF ELIGIBLE POPULATION FOR INDEPENDENT LIVING SERVICES.

Section 477(a)(2)(A) of the Social Security Act (42 U.S.C. 677(a)(2)(A)) is amended by inserting “(including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part)” before the comma.

SEC. 305. REAUTHORIZATION AND EXPANSION OF FAMILY PRESERVATION AND SUPPORT SERVICES.

(a) REAUTHORIZATION OF FAMILY PRESERVATION AND SUPPORT SERVICES.—

(1) IN GENERAL.—Section 430(b) of the Social Security Act (42 U.S.C. 629(b)) is amended—

(A) in paragraph (4), by striking “or” at the end;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(6) for fiscal year 1999, \$275,000,000;

“(7) for fiscal year 2000, \$295,000,000; and

“(8) for fiscal year 2001, \$305,000,000.”

(2) CONTINUATION OF RESERVATION OF CERTAIN AMOUNTS.—

Paragraphs (1) and (2) of section 430(d) of the Social Security Act (42 U.S.C. 629(d)(1) and (2)) are each amended by striking “and 1998” and inserting “1998, 1999, 2000, and 2001”.

(3) CONFORMING AMENDMENTS.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is amended—

(A) in subsection (c), by striking “1998” each place it appears and inserting “2001”; and

(B) in subsection (d)(2), by striking “and 1998” and inserting “1998, 1999, 2000, and 2001”.

(b) EXPANSION FOR TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES.—

(1) ADDITIONS TO STATE PLAN.—Section 432 of the Social Security Act (42 U.S.C. 629b) is amended—

(A) in subsection (a)—

(i) in paragraph (4), by striking “and community-based family support services” and inserting “, community-based family support services, time-limited family reunification services, and adoption promotion and support services,”; and

(ii) in paragraph (5)(A), by striking “and community-based family support services” and inserting “, community-based family support services, time-limited family reunification services, and adoption promotion and support services”; and

(B) in subsection (b)(1), by striking “and family support” and inserting “, family support, time-limited family reunification, and adoption promotion and support”.

(2) DEFINITIONS OF TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended by adding at the end the following:

“(7) TIME-LIMITED FAMILY REUNIFICATION SERVICES.—

“(A) IN GENERAL.—The term ‘time-limited family reunification services’ means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child’s home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care.

“(B) SERVICES AND ACTIVITIES DESCRIBED.—The services and activities described in this subparagraph are the following:

“(i) Individual, group, and family counseling.

“(ii) Inpatient, residential, or outpatient substance abuse treatment services.

“(iii) Mental health services.

“(iv) Assistance to address domestic violence.

“(v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.

“(vi) Transportation to or from any of the services and activities described in this subparagraph.

“(8) ADOPTION PROMOTION AND SUPPORT SERVICES.—The term ‘adoption promotion and support services’ means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.”

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PURPOSES.—Section 430(a) of the Social Security Act (42 U.S.C. 629(a)) is amended by striking “and community-based family support services” and inserting “, community-based family support services, time-limited family reunification services, and adoption promotion and support services”.

(B) PROGRAM TITLE.—The heading of subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.) is amended to read as follows:

“Subpart 2—Promoting Safe and Stable Families”.

(c) EMPHASIZING THE SAFETY OF THE CHILD.—

(1) REQUIRING ASSURANCES THAT THE SAFETY OF CHILDREN SHALL BE OF PARAMOUNT CONCERN.—Section 432(a) of the Social Security Act (42 U.S.C. 629b(a)) is amended—

(A) by striking “and” at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8); and

(C) by adding at the end the following:

“(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern.”.

(2) DEFINITIONS OF FAMILY PRESERVATION AND FAMILY SUPPORT SERVICES.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting “safe and” before “appropriate” each place it appears; and

(ii) in subparagraph (B), by inserting “safely” after “remain”; and

(B) in paragraph (2)—

(i) by inserting “safety and” before “well-being”; and

(ii) by striking “stable” and inserting “safe, stable,”.

(d) CLARIFICATION OF MAINTENANCE OF EFFORT REQUIREMENT.—

(1) DEFINITION OF NON-FEDERAL FUNDS.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)), as amended by subsection (b)(2), is amended by adding at the end the following:

“(9) NON-FEDERAL FUNDS.—The term ‘non-Federal funds’ means State funds, or at the option of a State, State and local funds.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if included in the enactment of section 13711 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-33; 107 Stat. 649).

42 USC 629a
note.

SEC. 306. HEALTH INSURANCE COVERAGE FOR CHILDREN WITH SPECIAL NEEDS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 106, is amended—

(1) in paragraph (19), by striking “and” at the end;

(2) in paragraph (20), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

“(A) such coverage may be provided through 1 or more State medical assistance programs;

“(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

42 USC 671 note. **SEC. 402. REPORTING REQUIREMENTS.**

Any information required to be reported under this Act shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regulations issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.

SEC. 403. SENSE OF CONGRESS REGARDING STANDBY GUARDIANSHIP.

It is the sense of Congress that the States should have in effect laws and procedures that permit any parent who is chronically ill or near death, without surrendering parental rights, to designate a standby guardian for the parent's minor children, whose authority would take effect upon—

- (1) the death of the parent;
- (2) the mental incapacity of the parent; or
- (3) the physical debilitation and consent of the parent.

SEC. 404. TEMPORARY ADJUSTMENT OF CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.

(a) **REDUCTION OF APPROPRIATION.**—Section 403(b)(2) of the Social Security Act (42 U.S.C. 603(b)(2)) is amended by inserting “, reduced by the sum of the dollar amounts specified in paragraph (6)(C)(ii)” before the period.

(b) **INCREASE IN STATE REMITTANCES.**—Section 403(b)(6) of such Act (42 U.S.C. 603(b)(6)) is amended by adding at the end the following:

“(C) **ADJUSTMENT OF STATE REMITTANCES.**—

“(i) **IN GENERAL.**—The amount otherwise required by subparagraph (A) to be remitted by a State for a fiscal year shall be increased by the lesser of—

“(I) the total adjustment for the fiscal year, multiplied by the adjustment percentage for the State for the fiscal year; or

“(II) the unadjusted net payment to the State for the fiscal year.

“(ii) **TOTAL ADJUSTMENT.**—As used in clause (i), the term ‘total adjustment’ means—

“(I) in the case of fiscal year 1998, \$2,000,000;

“(II) in the case of fiscal year 1999, \$9,000,000;

“(III) in the case of fiscal year 2000, \$16,000,000; and

“(IV) in the case of fiscal year 2001, \$13,000,000.

“(iii) **ADJUSTMENT PERCENTAGE.**—As used in clause (i), the term ‘adjustment percentage’ means, with respect to a State and a fiscal year—

“(I) the unadjusted net payment to the State for the fiscal year; divided by

“(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

“(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program.”.

SEC. 307. CONTINUATION OF ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS ON BEHALF OF CHILDREN WITH SPECIAL NEEDS WHOSE INITIAL ADOPTION HAS BEEN DISSOLVED.

(a) **CONTINUATION OF ELIGIBILITY.**—Section 473(a)(2) of the Social Security Act (42 U.S.C. 673(a)(2)) is amended by adding at the end the following: “Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child’s adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall only apply to children who are adopted on or after October 1, 1997. 42 USC 673 note.

SEC. 308. STATE STANDARDS TO ENSURE QUALITY SERVICES FOR CHILDREN IN FOSTER CARE.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 106 and 306, is amended—

(1) in paragraph (20), by striking “and” at the end;

(2) in paragraph (21), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.”.

TITLE IV—MISCELLANEOUS

SEC. 401. PRESERVATION OF REASONABLE PARENTING.

42 USC 671 note.

Nothing in this Act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit

TITLE V—EFFECTIVE DATE42 USC 622 note. **SEC. 501. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as otherwise provided in this Act, the amendments made by this Act take effect on the date of enactment of this Act.

(b) **DELAY PERMITTED IF STATE LEGISLATION REQUIRED.**—In the case of a State plan under part B or E of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Approved November 19, 1997.

LEGISLATIVE HISTORY—H.R. 867:

HOUSE REPORTS: No. 105-77 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 143 (1997):

Apr. 30, considered and passed House.

Nov. 8, considered and passed Senate, amended.

Nov. 13, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 33 (1997):

Nov. 19, Presidential remarks.

○

“(II) the sum of the unadjusted net payments to all States for the fiscal year.

“(iv) UNADJUSTED NET PAYMENT.—As used in this subparagraph, the term, ‘unadjusted net payment’ means with respect to a State and a fiscal year—

“(I) the total amount paid to the State under paragraph (3) in the fiscal year; minus

“(II) the amount that, in the absence of this subparagraph, would be required by subparagraph (A) or by section 409(a)(10) to be remitted by the State in respect of the payment.”

(c) RECOMMENDATIONS FOR IMPROVING THE OPERATION OF THE CONTINGENCY FUND.—Not later than March 1, 1998, the Secretary of Health and Human Services shall make recommendations to the Congress for improving the operation of the Contingency Fund for State Welfare Programs.

SEC. 405. COORDINATION OF SUBSTANCE ABUSE AND CHILD PROTECTION SERVICES.

Reports.
42 USC 613 note.

Within 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children and Families in the Department of Health of Human Services, shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which describes the extent and scope of the problem of substance abuse in the child welfare population, the types of services provided to such population, and the outcomes resulting from the provision of such services to such population. The report shall include recommendations for any legislation that may be needed to improve coordination in providing such services to such population.

SEC. 406. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

42 USC 671 note.

(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

TITLE IV

PART B--CHILD AND FAMILY SERVICES

Subpart 1--Child Welfare Services

APPROPRIATION

SEC. 420. [42 U.S.C. 620] (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of \$325,000,000.

(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

ALLOTMENTS TO STATES

SEC. 421. [42 U.S.C. 621] (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot \$70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

(b) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce.

Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

STATE PLANS FOR CHILD WELFARE SERVICES¹

SEC. 422. [42 U.S.C. 622] (a) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

(b) Each plan for child welfare services under this subpart shall--

(1) provide that (A) the individual or agency that administers or supervises the administration of the State's services program under title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State program funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families.

(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this subpart, except insofar as eligibility for such services is involved;

P.L. 96-272, §103(a), amended §422 in its entirety effective June 17, 1980, except that in the case of Guam, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, §422(b)(1) shall be deemed to read as follows:

(1) provide that (A) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering such plan for child welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child welfare services;

(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in--

(A) covering additional political subdivisions,

(B) reaching additional children in need of services, and

(C) expanding and strengthening the range of existing services and developing new types of services, along with a description of the State's child welfare services staff development and training plans;

(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State;

(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require;

(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed;

(10) provide assurances that the State--

(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined--

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) is operating, to the satisfaction of the Secretary--

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

(ii) a case review system (as defined in section 475(5) for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children--

(I) where ~~safe and~~ appropriate, return to families from which they have been removed; or

(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain safely with their families; and

(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

(ii) is implementing (or within 24 months after the date of the enactment of this paragraph will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children; and

(11) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act; and

(12) contain assurances that the State shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.

PAYMENT TO STATES

SEC. 423. [42 U.S.C. 623] (a) From the sums appropriated therefor and the allotment under this subpart, subject to the conditions set forth in this section, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

(b) The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection (c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

REALLOTMENT

SEC. 424. [42 U.S.C. 624] (a) IN GENERAL.--Subject to subsection (b), the amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallocations shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallocated to a State shall be deemed part of its allotment under section 421.

(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.--The Secretary shall not reallocate under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(10).

DEFINITIONS

SEC. 425. [42 U.S.C. 625] (a)(1) For purposes of this title, the term "child welfare services" means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

(2) Funds expended by a State for any calendar quarter to comply with section 422(b)(10) or 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.

(b) For other definitions relating to this part and to part E of this title, see section 475 of this Act.

RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS

SEC. 426. [42 U.S.C. 626] (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine--

(1) for grants by the Secretary--

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships described in section 429 with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b)(1) There are authorized to be appropriated \$4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

(2) The demonstration projects conducted under this section may include--

(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

(5) No project may be funded unless the application therefor contains assurances that it will--

(A) provide for adequate evaluation;

(B) provide for coordination with local governments;

(C) provide for community education regarding the inappropriate hospitalization of infants;

(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

(E) meet such other criteria as the Secretary may prescribe.

(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.

(7) The Secretary shall provide training and technical assistance to grantees, as requested.

(c) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

SEC. 428. [42 U.S.C. 628] (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this subpart directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this subpart. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

(c) For purposes of this section, the terms "Indian tribe" and "tribal organization" shall have the meanings given such terms by subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively.

CHILD WELFARE TRAINEESHIPS

SEC. 429. [42 U.S.C. 628a] The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application--

(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a "recipient") will enter into an agreement with the institution under which the recipient agrees--

(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

(2) provides assurances that the institution will--

(A) enter into agreements with child welfare agencies for onsite training of recipients;

(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.

NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE

SEC. 429A. [42 U.S.C. 628b] (a) IN GENERAL.--The Secretary shall conduct (directly, or by grant, contract, or interagency agreement) a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected.

(b) REQUIREMENTS.--The study required by subsection (a) shall--

(1) have a longitudinal component; and

(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

(c) PREFERRED CONTENTS.--In conducting the study required by subsection (a), the Secretary should--

(1) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

(2) follow each case for several years while obtaining information on, among other things--

(A) the type of abuse or neglect involved;

(B) the frequency of contact with State or local agencies;

(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

(D) the number, type, and characteristics of out-of-home placements of the child; and

(E) the average duration of each placement.

(d) REPORTS.--

(1) IN GENERAL.--From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

(2) AVAILABILITY.--The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

(3) AUTHORITY TO CHARGE FEE.--The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

(e) APPROPRIATION.--Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for each of fiscal years 1996 through 2002 \$6,000,000 to carry out this section.

~~Subpart 2--Family Preservation and Support Services~~

Subpart 2--Promoting Safe and Stable Families

PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS;
RESERVATION OF CERTAIN AMOUNTS

SEC. 430. [42 U.S.C. 629] (a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.--For the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services ~~and community-based family support services, community-based family support services, time-limited family reunification services, and adoption promotion and support services,~~ there are authorized to be appropriated to the Secretary the amounts described in subsection (b) for the fiscal years specified in subsection (b).

(b) Description of Amounts.--The amount described in this subsection is--

- (1) for fiscal year 1994, \$60,000,000;
- (2) for fiscal year 1995, \$150,000,000;
- (3) for fiscal year 1996, \$225,000,000;
- (4) for fiscal year 1997, \$240,000,000; or
- (5) for fiscal year 1998, the greater of--

(A) \$255,000,000; or

(B) the amount described in this subsection for fiscal year 1997, increased by the inflation percentage applicable to fiscal year 1998--;

- (6) for fiscal year 1999, \$275,000,000;
- (7) for fiscal year 2000, \$295,000,000; and
- (8) for fiscal year 2001, \$305,000,000.

(c) INFLATION PERCENTAGE.--For purposes of subsection (b)(5)(B) of this section, the inflation percentage applicable to any fiscal year is the percentage (if any) by which--

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

(d) RESERVATION OF CERTAIN AMOUNTS.--

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.--The Secretary shall reserve \$2,000,000 of the amount described in subsection (b) for fiscal year 1994, and \$6,000,000 of the amounts so described for each of fiscal years 1995, 1996, 1997, ~~and 1998-1998, 1999, 2000, and 2001~~, for expenditure by the Secretary--

(A) for research, training, and technical assistance related to the program under this subpart; and

(B) for evaluation of State programs funded under this subpart and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart.

(2) STATE COURT ASSESSMENTS.--The Secretary shall reserve \$5,000,000 of the amount described in subsection (b) for fiscal year 1995, and \$10,000,000 of the amounts so described for each of fiscal years 1996, 1997, ~~and 1998-1998, 1999, 2000, and 2001~~, for grants under section 13712 of the Omnibus Budget Reconciliation Act of 1993.

(3) Indian tribes.--The Secretary shall reserve 1 percent of the amounts described in subsection (b) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

DEFINITIONS

SEC. 431. [42 U.S.C. 629a] (a) IN GENERAL.--As used in this subpart:

(1) FAMILY PRESERVATION SERVICES.--The term "family preservation services" means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including--

(A) service programs designed to help children--

(i) where ~~safe and~~ appropriate, return to families from which they have been removed; or

(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be ~~safe and~~ appropriate for a child, in some other planned, permanent living arrangement;

(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain ~~safely~~ with their families;

(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with

respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

(2) **FAMILY SUPPORT SERVICES.**--The term "family support services" means community-based services to promote the safety and well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a ~~stable-safe~~, ~~stable~~ and supportive family environment, and otherwise to enhance child development.

(3) **State agency.**--The term "State agency" means the State agency responsible for administering the program under subpart 1.

(4) **State.**--The term "State" includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

(5) **Tribal organization.**--The term "tribal organization" means the recognized governing body of any Indian tribe.

(6) **Indian tribe.**--The term "Indian tribe" means any Indian tribe (as defined in 482(i)(5)) and any Alaska Native organization (as defined in 482(i)(7)(A)).

(7) TIME-LIMITED FAMILY REUNIFICATION SERVICES. --

(A) **IN GENERAL.**--The term 'time-limited family reunification services' means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care.

(B) **SERVICES AND ACTIVITIES DESCRIBED.**--The services and activities described in this subparagraph are the following:

- (i) Individual, group, and family counseling.
- (ii) Inpatient, residential, or outpatient substance abuse treatment services.
- (iii) Mental health services.
- (iv) Assistance to address domestic violence.
- (v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.
- (vi) Transportation to or from any of the services and activities described in this subparagraph.

(8) **ADOPTION PROMOTION AND SUPPORT SERVICES.**--The term 'adoption promotion and support services' means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

(9) **NON-FEDERAL FUNDS.**--The term 'non-Federal funds' means State funds, or at the option of a State, State and local funds.

(b) Other Terms.--For other definitions of other terms used in this subpart, see section 475.

STATE PLANS

SEC. 432. [42 U.S.C. 629b] (a) PLAN REQUIREMENTS.--A State plan meets the requirements of this subsection if the plan--

(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

(C) contains assurances that the State--

(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

(4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services ~~and community-based family support services~~, community-based family support services, time-limited family reunification services, and adoption promotion and support services, with significant portions of such expenditures for each such program;

(5) contains assurances that the State will--

(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services ~~and community-based family support services~~,

community-based family support services, time-limited family reunification services, and adoption promotion and support services) of--

- (i) the service programs to be made available under the plan in the immediately succeeding fiscal year;
- (ii) the populations which the programs will serve; and
- (iii) the geographic areas in the State in which the services will be available; and

(B) perform the activities described in subparagraph (A)--

- (i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and
- (ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

(8) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.²

(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern.

(b) APPROVAL OF PLANS.--

(1) IN GENERAL.--The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support, family support, time-limited family reunification, and adoption promotion and support services).

(2) PLANS OF INDIAN TRIBES.--

(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.--The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

(B) SPECIAL RULE.--Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe under this

subpart to which (but for this subparagraph) an allotment of less than \$10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

ALLOTMENTS TO STATES

SEC. 433. [42 U.S.C. 629c] (a) INDIAN TRIBES.--From the amount reserved pursuant to section 430(d)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

(b) TERRITORIES.--From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

(c) OTHER STATES.--

(1) IN GENERAL.--From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) and subsection (b) of this section for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

(2) FOOD STAMP PERCENTAGE DEFINED.--

(A) IN GENERAL.--As used in paragraph (1) of this subsection, the term "food stamp percentage" means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

(B) FISCAL YEARS USED IN CALCULATION.--For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

PAYMENTS TO STATES

SEC. 434. [42 U.S.C. 629d] (a) ENTITLEMENT.--

(1) **GENERAL RULE.**--Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of--

(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

(B) the allotment of the State under section 433 for the fiscal year.

(2) **SPECIAL RULE.**--Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of--

(A) such amount, not exceeding \$1,000,000, from the allotment of the State under section 433 for fiscal year 1994, as the State may require to develop and submit a plan for approval under section 432; and

(B) an amount equal to the lesser of--

(i) 75 percent of the expenditures by the State for services to children and families in accordance with the application and the expenditure rules of section 432(a)(4); or

(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

(b) PROHIBITIONS.--

(1) **NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.**--Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a) may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

(2) **AVAILABILITY OF FUNDS.**--A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.--The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

EVALUATIONS

SEC. 435. [42 U.S.C. 629e] (a) EVALUATIONS.--

(1) **IN GENERAL.**--The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, and may evaluate any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the

program under this subpart, in accordance with criteria established in accordance with paragraph (2).

(2) **CRITERIA TO BE USED.**--In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as--

(A) State agencies administering programs under this part and part E;

(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

(b) **COORDINATION OF EVALUATIONS.**--The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.

Part E--Federal Payments for Foster Care and Adoption Assistance

PURPOSE: APPROPRIATION

SEC. 470. [42 U.S.C. 670] For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would have been eligible for assistance under the State's plan approved under part A (as such plan was in effect on June 1, 1995) and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. [42 U.S.C. 671] (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which--

(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance in accordance with section 473;

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title (including activities under part F) or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that the State agency will--

(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

~~(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;~~

(15) provides that--

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families--

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that--

(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) the parent has--

(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)--

(i) a permanency hearing (as described in section 475(5)(C)) shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described in subparagraph (B);

(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and

provides for a case review system which meets the requirements described in section 475(5)(B) with respect to each such child;

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A and plan approved under part D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part;

(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may--

(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; and

(19) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards; and

(20)(A) unless an election provided for in subparagraph (B) is made with respect to the State, provides procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that--

(i) in any case in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

(B) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State; and

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an

adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage--

(A) such coverage may be provided through 1 or more State medical assistance programs;

(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program; and

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 472. [42 U.S.C. 672] (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would have met the requirements of section 406(a) or of section 407 (as such sections were in effect on July 16, 1996) but for his removal from the home of a relative (specified in section 406(a) (as so in effect)), if--

(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the

administration of the State plan approved under section 471 has made an agreement which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

(4) such child--

(A) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) (as in effect on July 16, 1996) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

In any case where the child is an alien disqualified under section 245A(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(2)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is--

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" (as defined in section 475(4)).

(c) For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term "child-care institution" means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any

other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(b)(10).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) In any case where--

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h)(1) For purposes of titles XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with

respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

ADOPTION ASSISTANCE PROGRAM

SEC. 473. [42 U.S.C. 673] (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State--

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child--

(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as such sections were in effect on July 16, 1996) or would have met such requirements except for his removal from the home of a relative (specified in section 406(a) (as so in effect)) or, either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) (as such section was in effect on July 16, 1996) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits, or

(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),

(B)(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) (as in effect on July 16, 1996) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

(iii) is a child described in subparagraph (A)(ii) or (A)(iii), and

(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence. Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term "nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

(2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child--

(A)(i) who is a child described in subsection (a)(2), and

(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

(B) with respect to whom foster care maintenance payments are being made under section 472.

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

(c) For purposes of this section, a child shall not be considered a child with special needs unless--

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

SEC. 473A. ADOPTION INCENTIVE PAYMENTS

(a) **GRANT AUTHORITY.**—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

(b) **INCENTIVE-ELIGIBLE STATE.**—A State is an incentive-eligible State for a fiscal year if--

- (1) the State has a plan approved under this part for the fiscal year;
- (2) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;
- (3) the State is in compliance with subsection (c) for the fiscal year;
- (4) in the case of fiscal years 2001 and 2002, the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and
- (5) the fiscal year is any of fiscal years 1998 through 2002.

(c) **DATA REQUIREMENTS.**—

(1) **IN GENERAL.**—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)--

(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such 1st fiscal year); and

(B) for each succeeding fiscal year that precedes the fiscal year.

(2) **DETERMINATION OF NUMBERS OF ADOPTIONS.**—

(A) **DETERMINATIONS BASED ON AFCARS DATA.**—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1995 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

(B) **ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997.**—For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

(3) **NO WAIVER OF AFCARS REQUIREMENTS.**—This section shall not be construed to alter or affect any requirement of section 479 or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

(d) **ADOPTION INCENTIVE PAYMENT.**—

(1) **IN GENERAL.**--Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of--

(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the fiscal year.

(2) **PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS**

AVAILABLE.--For any fiscal year, if the total amount of adoption incentive payments otherwise payable under this section for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under this section for the fiscal year shall be--

(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section for the fiscal year; multiplied by

(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption incentive payments otherwise payable under this section for the fiscal year.

(e) **2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.**--Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

(f) **LIMITATIONS ON USE OF INCENTIVE PAYMENTS.**--A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

(g) **DEFINITIONS.**--As used in this section:

(1) **FOSTER CHILD ADOPTION.**--The term 'foster child adoption' means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

(2) **SPECIAL NEEDS ADOPTION.**--The term 'special needs adoption' means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

(3) **BASE NUMBER OF FOSTER CHILD ADOPTIONS.**--The term 'base number of foster child adoptions for a State' means--

(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

(4) **BASE NUMBER OF SPECIAL NEEDS ADOPTIONS.**--The term 'base number of special needs adoptions for a State' means--

(A) with respect to fiscal year 1998, the average number of special needs adoptions in the State in fiscal years 1995, 1996, and 1997; and

(B) with respect to any subsequent fiscal year, the number of special needs adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

(h) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**--

(1) **IN GENERAL.**--For grants under subsection (a), there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 1999 through 2003.

(2) **AVAILABILITY.**--Amounts appropriated under paragraph (1) are authorized to remain available until expended, but not after fiscal year 2003.

(i) **TECHNICAL ASSISTANCE.**--

(1) **IN GENERAL.**--The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

(2) **DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.**--The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

(A) The development of best practice guidelines for expediting termination of parental rights.

(B) Models to encourage the use of concurrent planning.

(C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.

(F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

(3) **TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS.**--Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

(4) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**--To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 1998 through 2000.

PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. [42 U.S.C. 674] (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of--

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan--

(A) 75 per centum of so much of such expenditures as are for the training (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents and the members of the staff of State-licensed or State-approved child care institutions providing care to foster and adopted children receiving assistance under this part, in ways that increase the ability of such current or prospective parents, staff members, and institutions to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract,

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems--

(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and
(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus
(4) an amount equal to the sum of--

(A) so much of the amounts expended by such State to carry out programs under section 477 as do not exceed the basic amount for such State determined under section 477(e)(1); and

(B) the lesser of--

(i) one-half of any additional amounts expended by such State for such programs; or

(ii) the maximum additional amount for such State under such section 477(e)(1).

(b) (1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with subsection (a), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection a), the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall--

(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

(ii) in any other case, allow the claim, subject to disallowance (as necessary)--

(I) upon completion of the review, if it is determined that the claim is not allowable; or

(II) on the basis of findings of an audit or financial management review.

(c) **AUTOMATED DATA COLLECTION EXPENDITURES.**--The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by--

(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(e) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has--

(1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(2) failed to grant an opportunity for a fair hearing, as described in section 471(a)(12), to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.

DEFINITIONS

SEC. 475. [42 U.S.C. 675] As used in this part or part B of this title:

(1) The term "case plan" means a written document which includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) To the extent available and accessible, the health and education records of the child, including--

(i) the names and addresses of the child's health and educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

(v) a record of the child's immunizations;

(vi) the child's known medical problems;

(vii) the child's medications; and

(viii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) Where appropriate, for a child age 16 or over, ~~the case plan must also include~~ a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps

the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where--

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(5) The term "case review system" means a procedure for assuring that--

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which--

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship,

(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a ~~dispositional-permanency~~ hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than ~~eighteen~~ 12 months after the ~~original placement date~~ the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the ~~future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis)~~ permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a

change in the child's placement, and to any determination affecting visitation privileges of parents; ~~and~~

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care-; ~~and~~

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless--

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child-; ~~and~~
(F) a child shall be considered to have entered foster care on the earlier

of--

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home-; ~~and~~

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of

whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term 'legal guardianship' means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term 'legal guardian' means the caretaker in such a relationship.

TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

SEC. 476. [42 U.S.C. 676] (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

INDEPENDENT LIVING INITIATIVES

SEC. 477. [42 U.S.C. 677] (a)(1) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children described in paragraph (2) who have attained age 16 in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e).

(2) A program established and carried out under paragraph (1)--

(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part (including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part),

(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State, and

(C) may at the option of the State also include any child who has not attained age 21 to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in

subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.

(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for any succeeding fiscal year such description and assurances must be submitted prior to February 1 of such fiscal year.

(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to--

(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

(3) provide for individual and group counseling;

(4) integrate and coordinate services otherwise available to participants;

(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

(7) provide participants with other services and assistance designed to improve their transition to independent living.

(e)(1)(A) The basic amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1987 and any succeeding fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

(B) The maximum additional amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1991 and any succeeding fiscal year shall be an amount which bears

the same ratio to the additional ceiling for such fiscal year as the basic amount of such State bears to \$45,000,000.

(C) As used in this section:

(i) The term "basic ceiling" means--

(I) for fiscal year 1990, \$50,000,000; and

(II) for each fiscal year other than fiscal year 1990, 45,000,000.

(ii) The term "additional ceiling" means--

(I) for fiscal year 1991, \$15,000,000; and

(II) for any succeeding fiscal year, \$25,000,000.

(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved. Amounts payable under this section may not be used for the provision of room or board.

(f) Payments made to a State under this section for any fiscal year--

(1) shall be used only for the specific purposes described in this section;

(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

Notwithstanding paragraph (3), payments made to a State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.

(g)(1) Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year with the amounts received under this section. Such report--

(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

(B) Not later than March 1, 1989, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal years 1987 and 1988, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs

for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.

SEC. 478. RULE OF CONSTRUCTION. Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).

COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

SEC. 479. [42 U.S.C. 679] (a)(1) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the "Advisory Committee") to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(2) The study required by paragraph (1) shall--

(A) identify the types of data necessary to--

(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

(ii) develop appropriate national policies with respect to adoption and foster care;

(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

(D) evaluate the financial and administrative impact of implementing each such method.

(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

(B) The membership of the Advisory Committee shall include representatives of--

(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

(v) Federal agencies responsible for the collection of health and social statistics, and

(vi) organizations and agencies involved with privately arranged or international adoptions.

(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

(b)(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that--

(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

(B) The report required by subparagraph (A) shall--

(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of--

(A) the system proposed under paragraph (1)(A)(i), or

(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

(c) Any data collection system developed and implemented under this section shall--

- (1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;
- (2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;
- (3) provide comprehensive national information with respect to--
 - (A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,
 - (B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),
 - (C) the number and characteristics of--
 - (i) children placed in or removed from foster care,
 - (ii) children adopted or with respect to whom adoptions have been terminated, and
 - (iii) children placed in foster care outside the State which has placement and care responsibility, and
 - (D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and
- (4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

SEC. 479A. ANNUAL REPORT. The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall--

- (1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;
- (2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;
- (3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;
- (4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part; and
- (5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved.

Title IV-B / Title IV- E STATE PLAN - STATE OF _____

REQUIRED STATE LEGISLATION

I hereby certify that State legislation **is/is not** necessary to comply with the following titles IV-B and IV-E State plan requirements contained in Public Law 105-89, The Adoption and Safe Families Act of 1997 (*check all that apply only if legislation is necessary*):

Title IV-B, Subparts 1 and 2:

- ☐ Including safety in case plan and case review requirements [section 422(b)(10)]
- ☐ Adoptions across State and county jurisdictions [section 422(b)(12)]
- ☐ Requiring assurances that the safety of children shall be the paramount concern [section 432(a)(9)]

Title IV-E:

- ☐ Clarification of the reasonable efforts requirement [section 471(a)(15)]
- ☐ Criminal record checks for prospective foster and adoptive parents [section 471(a)(20)]
- ☐ Health insurance coverage for children with special needs [section 471(a)(21)]
- ☐ State standards to ensure quality services for children in foster care [section 471(a)(22)]
- ☐ State requirement to initiate or join proceedings within a specified time to terminate parental rights for certain children in foster care [section 475(5)(E) and (F)]

Therefore, I **do/do not** request a delay of the effective date for the implementation of the requirements checked above, as set forth in Section 501(b) of Public Law 105-89. The estimated delayed effective date for these requirements will be _____ (the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that began after November 19, 1997).

(Date)_____
(Signature of Designated State Agency Official)_____
(Title)

Approval Date: _____

(Signature, ACF Regional Administrator or Designee)

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THE ADOPTION AND SAFE FAMILIES ACT OF 1997

On November 19, 1997 the President signed the Adoption and Safe Families Act (Public Law 105-89), in an effort to promote adoption and ensure safety for children in foster care. Major provisions are summarized below.

Child Safety and "Reasonable Efforts" to Preserve Families

- The Adoption and Safe Families Act requires that a child's health and safety be of "paramount" concern in any efforts made by the State to preserve or reunify the child's family. The new law establishes exceptions to the "reasonable efforts" requirement.
- The legislation requires States to conduct criminal background checks for all prospective foster or adoptive parents, and deny approval to anyone who has ever been convicted of specific crimes.

"Reasonable Efforts" to Promote Adoption

- The new law also specifies that concurrent efforts can be made to preserve or reunify a family and to place the child for adoption or guardianship.
- The Act contains provisions intended to eliminate interjurisdictional issues as a potential barrier to a child's adoption.

Excelserate Permanency Hearings and Termination of Parental Rights

- Prior Federal law required that every foster child must have a judicial hearing, known as a "dispositional" hearing, within 18 months of their placement in care to determine their future status. The new law requires this hearing to occur within 12 months of placement, and changes the name to "permanency" hearing.
- States are required to initiate proceedings to terminate parental rights (TPR) for children who have been in foster care for 15 of the most recent 22 months, for infants determined under State law to be abandoned, and in any case where the court has found that a parent has committed specific crimes. There was no comparable provision in prior law.

Adoption Incentive Payments

- The Act intends to promote adoption by providing incentive payments to States that increase their number of foster child adoptions, with additional incentives for the adoption of foster children with special needs.

- Incentive payments will equal \$4,000 for each foster child whose adoption is finalized (over base level) and \$6,000 for each special needs adoption above the base level. The new law authorizes \$20 million annually for these incentive payments, for fiscal years 1999-2003. In addition, discretionary budget caps are adjusted to help ensure that these funds will actually be appropriated.
- HHS is authorized to provide technical assistance to help States increase their number of foster child adoptions, and authorizes appropriations of \$10 million annually for each of fiscal years 1998-2000.

Eligibility for Adoption and Medical Assistance

- Children eligible for Federal adoption assistance under title IV-E are automatically eligible for Medicaid. States have the option to provide Medicaid coverage to special needs adopted children who do not meet the AFDC or SSI eligibility criteria for title IV-E subsidies.
- The Act requires States to provide health insurance coverage to these children, if they have special needs for medical, mental health, or rehabilitative care. Coverage may be through Medicaid or another program, as long as benefits are comparable. To be eligible for adoption incentive payments in FY 2000 or FY 2001 or a waiver demonstration, States must provide health coverage to any special needs child whose adoptive parents have entered into an adoption assistance agreement with any State.

Reauthorization and Renaming of Family Preservation Program

- The Act reauthorizes and changes the name of the existing Family Preservation Program to Promoting Safe and Stable Families. This program was scheduled to expire at the end of fiscal year 1998 and is reauthorized under Public Law 105-89 at: \$275 million in fiscal year 1999; \$295 million in fiscal year 2000; and \$305 million in fiscal year 2001.
- Prior law required States to devote significant expenditures to each of two types of services: family preservation; and community-based family support. The Adoption and Safe Families Act adds two more categories: time-limited family reunification services provided during the 15-month period after a child is removed from home; and adoption promotion and support services.

State Accountability for Performance

The Adoption and Safe Families Act also aims to increase the accountability of States for the performance of their child welfare programs. The legislation requires HHS, in consultation with public officials and child welfare advocates, to develop outcome measures in various categories (i.e., number of foster care placements and adoptions, length of stay in foster care), and to rate State performance according to these measures in an annual report.

The first annual report is due by May 1, 1999. In addition, the new law directs HHS to conduct a study and develop recommendations for a performance-based financial incentive system under titles IV-B and IV-E. To the extent feasible, this system will be based on the annual performance report described above. HHS must submit a progress report to Congress within 6 months of the new law's enactment, and a final report within 15 months.

State Innovation and Demonstration Waivers

Under legislation enacted in 1994, HHS is authorized to approve up to 10 States to receive waivers from title IV-B and IV-E rules in order to conduct demonstration projects. The Adoption and Safe Families Act allows HHS to approve an additional 10 demonstrations in each of fiscal years 1998-2002. Federal law does not mandate specific goals for these demonstrations. However, the new law directs the Secretary to give consideration to any applications received with the following purposes: (1) to identify and address barriers to adoption for foster children; (2) to identify and address parental substance abuse problems that result in foster care placement for children, including through placement of children together with their parents in appropriate residential treatment facilities; and (3) to address kinship care.

Additional Provisions

Additional provisions in Public Law 105-89: require HHS to submit a report to Congress by June 1, 1999, on the issue of kinship care; give child welfare agencies access to the Federal Parent Locator Service; clarify eligibility for the Independent Living Program; establish a sense of Congress in favor of standby guardianship laws; and make a statement of intent about "reasonable" parenting. Unless specified otherwise, the new law takes effect upon enactment, except that, where enactment of new State laws is required, States have until 3 months after their first legislative session to comply.

WHSO LAYOUT DRAFT 3

a/o 11/18/97; S. Warren

ADOPTION BILL SIGNING

Wednesday, November 19, 1997

Gates Open: 12:45 p.m.

Invite Time: 1:15 p.m.

Principal Time: 1:30 p.m.

Approx. 180 Guests/Open Press/Business Attire

12:30 p.m.

IN PLACE TIME

Set-up Notes: Volunteer at Coat Check at Family Theater, Volunteer at East Entrance, Social Aid at Stair Top to greet guests, Social Aid at Stair Bottom, Grand Foyer, and East Room.

12:45 p.m.

East Visitors Gate opens and guests proceed to East Room to be seated.

Note: 9 Social Aids; String and Piano in Grand Foyer.

Gate SIC:

Seating SIC:

Press Pool Contact: Kris Engskov

Press/Media Contact: Kara Gerhardt

1:10 p.m.

THE PRESIDENT, THE FIRST LADY, and THE VICE PRESIDENT are briefed in the Map Room.

1:30 p.m.

THE PRESIDENT, THE FIRST LADY, AND THE VICE PRESIDENT proceed to Blue Room to greet guests:

Blue Room SIC:

Secretary Donna Shalala

Ms. Sue Ann Badeau

Brother/Sister of Sue Ann Badeau

Mr. Dave Thomas

Sen. Jay Rockefeller

Rep. Barbara Kennelly

Sen. John Chafee

Rep. Clay Shaw

Sen. Mary Landrieu

Rep. Dave Camp

Sen. Mike DeWine

Rep. James Oberstar

Sen. Larry Craig

Rep. Carolyn Maloney

Rep. Connie Morella

Rep. Sandy Levin

Note: Upon conclusion of meet and greet, the Blue Room guests who are not speaking will be seated in the East Room.

Note: Sen. Rockefeller, Sen. Chafee, Rep. Kennelly, and Rep. Camp are seated on stage.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 13, 1997

STATEMENT BY THE PRESIDENT

I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home. I very much look forward to signing the Adoption and Safe Families Act of 1997 into law.

This legislation makes clear that children's health and safety are the paramount concerns of the public child welfare system. I am particularly pleased that the bill incorporates my Administration's recommendations to provide states with financial incentives to increase the number of children who are adopted and to make other changes in federal law that will make adoption easier and move children more rapidly out of foster care and into permanent homes. The legislation also strengthens support to states for services that help families stay together when that is possible and promote adoption when it is not. Most important, this legislation will help us meet the goal of doubling, by the year 2002, the number of children who are adopted or permanently placed each year.

I want to thank the many members of the Senate and the House of Representatives who worked so hard on this bipartisan achievement, but I particularly want to thank the congressional leadership and the sponsors of this legislation, Senators Chafee and Rockefeller and Representatives Camp and Kennelly, for their commitment. And I would like to add a special word of thanks to the First Lady for her tenacity and dedication to this important issue.

I can think of no better way to celebrate National Adoption Month than to sign this legislation into law.

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PRESIDENT CLINTON SIGNS THE ADOPTION AND SAFE FAMILIES ACT OF 1997

November 19, 1997

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal funds will continue for programs that work to keep families together when it is appropriate and safe to do so.

Ensuring that Children are Safe

Clarifies Reasonable Efforts: As the President proposed, the new law ensures that children's health and safety are the paramount concerns of the public child welfare system. It clarifies that there are instances when states are not required to make "reasonable efforts" to keep children with their parents, such as when a parent has been convicted of murdering another child or a child has been abandoned, tortured, or chronically abused.

Doubling the Number of Children Adopted or Permanently Placed by 2002

Creates Financial Incentives: The new law contains the President's plan to offer a financial bonus to states that increase the number of children who are adopted from the public foster care system. These incentives will help to double the number of children adopted. For every additional child adopted, a state will receive \$4,000, with an additional \$2,000 paid for each child with special needs. The Act authorizes \$20 million for each of 5 years (FY 1999 to FY 2003) for the bonuses, though eventually the bonuses will be offset by savings in foster care expenses.

Establishes Tighter Time Limits: Children who cannot safely return to their own families often wait far too long in foster care -- typically over 3 years, but for many much longer. Under the new law, permanency hearings will now be held no later than 12 months after a child enters foster care, 6 months earlier than under previous law, and states must initiate termination of parental rights proceedings, except in specified circumstances, for any child who has been in foster care for 15 of the previous 22 months.

Breaking Down Barriers, Promoting Safe and Stable Families, and Achieving Accountability

Eliminating Obstacles: The new law prohibits delaying or denying adoptions across state or county lines, thereby breaking geographic barriers to adoption.

Providing Supportive Services: The new law ensures that children with special needs keep health insurance coverage when they are adopted, either through Medicaid or through the new children's health program. In addition, the new law reauthorizes the Family Preservation and Family Support Services Program, renamed Promoting Safe and Stable Families, which provides services to strengthen families before crises occur and to ensure safe, stable homes for children who return to their families.

Emphasizing Results for Children: The new law authorizes HHS, in consultation with states, to develop new measures to track and rate state performance efforts in providing child welfare services to ensure successful results for children.

Recognizing Success: Prior to the bill signing today, HHS recognized 13 awardees for significant achievement in helping both adopted children and those waiting for adoption. Among the awardees are families, foundations, members of the media and states that have improved the management of child welfare programs.

THE CLINTON ADMINISTRATION RECORD ON ADOPTION

November 19, 1997

"I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home." -- Statement by President Clinton, November 13, 1997

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal support will continue for services to keep families together when it is appropriate and safe.

The Clinton Administration has previously taken several important steps to encourage and increase adoptions and to support the families who choose to open their hearts and their homes to these children. Since taking office in 1993, the President has championed programs that find and assist adoptive families, and has committed his Administration to breaking down barriers, including high adoption costs and complex regulations. These steps include:

MAKING ADOPTION AFFORDABLE FOR FAMILIES. Last year, President Clinton signed into law the Small Business Job Protection Act of 1996, which provides a \$5,000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. This provision has alleviated a significant barrier to adoption, helping middle class families for whom adoption may be prohibitively expensive and making it easier for families to adopt children with special needs. Since President Clinton took office, the number of children with special needs who have been adopted with federal adoption assistance has risen by 60 percent. This year, in signing the Balanced Budget Act of 1997, President Clinton ensured more support for families who adopt children with the \$500 Per-Child Tax Credit.

GIVING STATES FLEXIBILITY AND SUPPORT. To test innovative strategies to improve child welfare systems, the Clinton Administration has granted child welfare waivers to California, Delaware, Indiana, Illinois, Maryland, North Carolina, Ohio and Oregon, giving the states more flexibility in tailoring services to meet the needs of children and families. Up to two more states will receive approval for waivers under previous authority. Under the new Adoption and Safe Families Act, HHS will grant up to 10 waivers per year to states. In addition, this Administration has provided states with enhanced technical support and helped improve court operations. In September, HHS awarded 40 demonstration grants to states, local agencies, courts, private organizations, and others committed to promoting adoption, a total of \$7.9 million, for innovative programs to increase adoptions and reduce the number of children in foster care. To prevent children from entering foster care in the first place, in 1993 the Clinton Administration secured federal funding for the Family Preservation and Family Support Program to help states, local governments and service providers develop effective programs to serve children and families at risk.

BREAKING DOWN RACIAL AND ETHNIC BARRIERS TO ADOPTION. The Small Business Job Protection Act of 1996 also ensures that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity by strengthening the Multi-Ethnic Placement Act which the President signed in 1994.

PROVIDING SUPPORTS FOR CHILD PROTECTION AND ADOPTION. In 1993, President Clinton signed into law the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or health insurance. In addition, the welfare reform bill that the President signed into law maintains the guarantee of child protection and adoption, and does not reduce funds for child welfare, child abuse, foster care and adoption services.

RAISING PUBLIC AWARENESS. Through speeches, writings, events and public service announcements, the President and First Lady have promoted the importance and benefits of adoption.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 19, 1997

REMARKS BY THE PRESIDENT
AND FIRST LADY
AT ADOPTION BILL SIGNING

The East Room

1:53 P.M. EST

MRS. CLINTON: Thank you and welcome to the East Room. Please be seated. We are delighted to have all of you join us today for this very important event and one that many of you in this room have worked for and looked for for many years.

There are some people that I would like to acknowledge and introduce before we get started. You will hear from the four members of Congress who are here on the stage, Representative Kennelly, Representative Camp, Senator Chafee and Senator Rockefeller. Also attending are Senator Craig, Senator DeWine, Senator Landrieu, Representative Levin, Representative Oberstar, Representative Maloney, and Representative Morella. And I'd like to ask all the members of Congress to please stand. (Applause.)

This was truly a bipartisan piece of legislation. It could not have been passed without the strong support of the members whom you see, including the sponsors who are here on the stage. It was also a work that was very much in the heart of Secretary Donna Shalala and her team from HHS -- Richard Tarplin, Mary Bourdette, and Carol Williams. And I'd like to ask the Secretary and her team to stand please. (Applause.)

There were also a number of members of the White House staff who worked very hard with members of Congress and with members of the HHS contingent, and I'd like to acknowledge just a few of them

-- John Hilley, Bruce Reed, Elena Kagan, and in particular Jen Klein and Nicole Rabner. I want to thank all of them. (Applause.)

I'm also pleased that we have Governor Romer of Colorado. We have children, families, advocates, and leaders of the child welfare constituency here in our audience.

Nearly a year ago, the President and I met with children waiting in the foster care system for caring families to call their own. There the President pledged to reform the child welfare system to work better for the children it serves, to put their health and safety first, and to move children more quickly into safe and permanent homes. Today we as a nation make good on that pledge.

And for the thousands of American children who wait for a stable, loving home that will always be there, it is not a moment too soon. Right now there are nearly half a million children in foster care. For most, foster care is a safe haven on the road to a permanent home or back home. Too many, however, make countless detours along the way, shuffling from family to family without much hope that they will ever find permanent parents to love and take care of them. These children who will enter this holiday season unsure about whether the family they celebrate this year will be there with them next year deserve better.

We know it makes a difference for children to have permanent loving homes. It's not only research that tells us this; we know it by our intuition, by our own experience and we have all seen it firsthand. It was here in this room two years ago that a young woman named Deanna -- a child waiting to be adopted in foster care stood up and read a poem about what she wanted in life, and it wasn't real complicated. It is what all of us want. I'm happy that because of that event here in the East Room, she was able to meet a family who did adopt her. And I saw her last year at an event in Kansas City and almost didn't recognize her -- from a shy, withdrawn 13-year-old, she had blossomed into a cheerful, outgoing, confident teenager with a brilliant smile.

This landmark legislation that the President is about to sign will see to it there are more stories like Deanna's. This legislation stands as proof of what we can accomplish when we come together. As we see today, the national government does have an important role to play in reforming our foster care system, and giving guidance to courts and states in offering incentives to speed up and increase the numbers of adoptions, and in making sure that the

health and safety of our children is always the first priority.

But we know even more, all Americans have a role and a responsibility. Businesses can make it easier for their employees to adopt a child. And I want to single out Dave Thomas of Wendy's, who has led the way in showing all of us how that can be done. (Applause.)

Religious leaders can help spread the word about the joys of adoptions. Parents thinking about adoption can expand their search to reach out to kids in foster care. And if we reform the system so that it works the way that it should, more Americans will look to American children to adopt and not feel compelled to go overseas to adopt children. (Applause.)

With us today are some extraordinary Americans who have answered this call. This morning, the Department of Health and Human Services observed National Adoption Month by honoring outstanding achievements with the 1997 Adoption 2002 Excellence Awards. Secretary Shalala developed these awards at the request of the President. The winners are dedicated individuals and organizations, both large and small, who have worked to move children out of the foster care system and into permanent, loving homes. Some of them have been at the forefront of this issue for years; some have promoted and supported adoption in their communities; and some are parents who have opened their homes and hearts to our nation's most vulnerable children.

I'd like to ask all the honorees who were honored this morning to please stand. (Applause.) We want to thank you for the work you have done, for the example you have set. And we hope that through these awards, in conjunction with this legislation, there will be many, many more in your ranks in the years to come.

* * * * *

THE PRESIDENT: Thank you, Sue Ann. Thank you, Aaron (phonetic). And I want to thank the Badeau family for showing up. I think it's fair to say it was a greater effort for them than for anyone else here. (Laughter.) I appreciate the rest of your presence. It was easier for me than anybody; I just had to come downstairs. (Laughter.) But I'm grateful that they're here.

Secretary Shalala, I thank you and your staff for your remarkable work on this. And I thank the members of the White House staff, all the members of Congress who are present here. And especially I thank Senators Rockefeller and Chafee and Congressmen Camp and Kennelly for their work and for what they said here.

Congratulations to the Adoption 2002 Excellence Award winners. I thank all the advocates who are here. And I say a special word of thanks, along with all the others who have said it, to the First Lady, who has been passionately committed to this issue for at least 25 years now that I know. Thank you, Governor Romer, for coming. And thank you, Dave Thomas, for what you've done.

Again let me say to all the members of Congress who are here, Republicans and Democrats alike, I am very grateful for what you've done. This, after all, is what we got in public life for, isn't it?

Before I make my brief remarks, if you'll forgive me and understand, I have to make one public statement today about the situation in Iraq.

As I have said before, I prefer to resolve this situation peacefully, with our friends and allies, and I am working hard to do just that. But I want to be clear again about the necessary objective of any diplomacy now underway. Iraq must comply with the unanimous will of the international community and let the weapons inspectors resume their work to prevent Iraq from developing an arsenal of nuclear, chemical and biological weapons. The inspectors must be able to do so without interference. That's our top line; that's our bottom line. I want to achieve it diplomatically. But we're taking every step to make sure we are prepared to pursue whatever options are necessary.

I do not want these children we are trying to put in stable homes to grow up into a world where they are threatened by terrorists with biological and chemical weapons. It is not right. (Applause.)

It's hard to believe now, but it was just a little less than a year ago when I directed our administration to develop a plan to double the number of children we move from foster care to adoptive homes by the year 2002. We know that foster parents provide safe and caring families for children. But the children should not be trapped in them forever, especially when there are open arms waiting to

welcome them into permanent homes.

The Adoption and Safe Families Act, which I am about to sign, is consistent with the work of the 2002 report and our goals. It fundamentally alters our nation's approach to foster care and adoption. And fundamentally, it will improve the well-being of hundreds of thousands of our most vulnerable children. The new legislation makes it clear that children's health and safety are the paramount concerns of our public child welfare system. It makes it clear that good foster care provides important safe havens for our children, but it is by definition a temporary, not a permanent, setting.

The new law will help us to speed children out of foster care into permanent families by setting meaningful time limits for child welfare decisions, by clarifying which family situations call for reasonable reunification efforts and which simply do not. It will provide states with financial incentives to increase the number of children adopted each year. It will ensure that adopted children with special needs never lose their health coverage -- a big issue. Thank you, Congress, for doing that. It will reauthorize federal funding for timely services to alleviate crisis before they become serious, that aid the reunification of families that help to meet post-adoption needs.

With these measures we help families stay together where reunification is possible and help find safe homes for children much more quickly when it is not. We've come together in an extraordinary example of bipartisan cooperation to meet the urgent needs of children at risk. We put our differences aside, and put our children first.

This landmark legislation builds on other action taken in the last few years by Congress: the Adoption Tax Credit I signed into law August to make adopting children more affordable for families, especially those who adopt children with special needs; the Multiethnic Placement Act, enacted two years ago, ensuring that adoption is free from discrimination and delay, based on race, culture, or ethnicity; and the very first law I signed as President, the Family and Medical Leave Act of 1993, which enables parents to take time off to adopt a child without losing their jobs or their health insurance.

We have put in place here the building blocks of giving all of our children what should be their fundamental right -- a

chance at a decent, safe home; an honorable, orderly, positive upbringing; a chance to live out their dreams and fulfill their God-given capacities.

Now, as we approach Thanksgiving, when families all across our country come together to give thanks for their blessings, I would like to encourage more families to consider opening their homes and their hearts to children who need loving homes. You may not want to go as far as the Badeaus have -- (laughter) -- but they are a shining example of how we grow -- (applause) -- they are a shining example of how we grow when we give, how we can be blessed in return many times over. We thank them and all -- all of the adoptive parents in the country.

For those who are now or have been foster or adoptive parents, I'd like to say thank you on behalf of a grateful nation, and again say at Thanksgiving, let us thank God for our blessings and resolve to give more of our children the blessings they deserve.

Thank you very much. (Applause.)

END

2:19 P.M. EST

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Numerical Targets to Double Adoptions	Work with States on numerical goals and targets to double the number of adoptions and other permanent placements by 2002.	No additional legislative authority needed.
Technical Assistance	Provide technical assistance to State agencies, courts and communities to improve the timeliness of permanency decisions and to increase the number of adoptions and other permanent placements (requested \$10 million per year).	Authorized (but not appropriated) at \$10 million per year for each year FY98 through 2000 (section 201(a)). Specific priority topics for TA are specified, and half the funds must be spent on TA for courts to improve their handling of adoption issues.
Financial Incentives for Increased Adoptions	Financial incentives to states to increase the number of adoptions from the public child welfare system (per child bonuses).	Authorized (but not appropriated) at \$20 million per year for each year FY1999 through 2003 (section 201(a)). The discretionary spending cap is adjusted for amounts that may in the future be appropriated for these purposes. Bonuses are in the amounts requested by the Administration (\$4000 per adoption plus an additional \$2000 for each special needs adoption.)
MEPA Implementation	Continued aggressive implementation of the Multiethnic Placement Act, as amended.	No additional legislative authority needed.
State-by-State Progress Report	Publish an annual State-by-State report on success in meeting numerical targets for adoption.	Requires HHS to develop outcome measures and a rating system for child welfare services, based as much as possible on AFCARS data. Requires an annual report to Congress based on such data beginning in May 1999. In addition, the law requires that HHS develop a performance based incentive system for IV-B and IV-E payments (feasibility study due 6 months after enactment and final report due 15 months after enactment). All of these efforts are to be undertaken in consultation with outside partners (section 203).
Recognize Success	Recognize successful state efforts.	No additional legislative authority needed.

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Barrier Removal Grants	Provide States with funding to identify and remove barriers to permanency and adoption.	No provision for such grants, although child welfare waiver demonstrations on this topic are explicitly encouraged.
Hearing Timelines	Clarify the purpose of dispositional hearings by renaming them permanency planning hearings and shorten the timeframe until such a hearing is required from 18 months to 12 months. A variety of other steps/approaches to improve timeliness are discussed, but no specific timelines for terminations of parental rights (TPRs) are proposed.	Renames the hearings as permanency hearings and moves them to no later than 12 months after a child enters foster care (section 302). In addition, provides that the state shall file to terminate parental rights for any child in foster care 15 of the past 22 months, for abandoned infants and for children whose parents have been determined by a court of competent jurisdiction to have committed any of a series of specified offenses against the child or a sibling. Exceptions are provided for children in kinship care, cases where the state agency has documented a compelling reason why such action would not be in the child's best interests, or where the state has not provided appropriate services in cases where reasonable efforts are required (section 103). For children whose parents have committed an offense which obviates the need for reasonable efforts, a permanency hearing is required within 30 days (section 101).
Reasonable Efforts Clarifications on Safety	Clarify "reasonable efforts" requirements to emphasize that child health and safety should be the paramount concern in making child welfare decisions and to illustrate circumstances in which reunification is not appropriate.	Adds language on child health/safety and reasonable efforts along the lines envisioned in Adoption 2002 and specifies several types of cases in which reasonable efforts are not required (section 101). Also adds safety language to provisions regarding the contents of case plans and requirements for case reviews (section 102).

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Reasonable Efforts Regarding Adoption	Establish a reasonable efforts requirement to secure an adoptive home when reunification has been ruled out.	Requires reasonable efforts to find an adoptive home or other permanent living arrangement for children whose permanency plan is other than return home (section 101) and requires documentation of such efforts (section 107). Clarifies that efforts toward adoption may be made concurrently with reunification efforts.
Use of FPLS in Child Welfare Cases	Encourage States to use the Federal Parent Locator Service to locate absent parents and relatives who might provide a permanent home for the child and to terminate parental rights when appropriate.	Specific authority to use the FPLS for these purposes is provided (section 105).
Child Welfare Waivers	Increase the number of child welfare demonstration waivers.	The Secretary may authorize 10 demonstration projects per year for each of FYs 1998-2001. The Secretary is particularly required to consider applications regarding the removal of barriers to adoption, regarding substance abuse treatment and placing children in residential facilities with their mothers, and regarding kinship care. The Secretary further is granted the authority to extend the duration of demonstration projects beyond their initial 5 year period (section 301).
Kinship Care	Suggests this is an issue that needs further study. Commits to establishing kinship demonstration projects as provided for in the reauthorized CAPTA legislation, and through child welfare demonstration waivers.	HHS must produce a draft report on kinship care which is to be reviewed by an advisory panel on kinship care (to be convened by June 1, 1998), and then issue a final report by June 1, 1999 (section 303). The advisory panel's primary purpose is to review the Secretary's draft report. See also mention of kinship care under the topic of child welfare waivers.

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Interjurisdictional Issues	Proposes technical assistance to support the development of collaboratives that encourage placements across geographical boundaries.	The law explicitly prohibits states from delaying or denying adoptive placements outside State or county jurisdictional lines. In addition, title IV-E state plan requirements are amended to include an assurance that the state shall develop plans for the effective use of cross-jurisdictional resources. The GAO is also required to study the issue and to submit a report to Congress within one year of the date of enactment (section 202).
Notice of Hearings and Right to Be Heard for Foster Parents, Preadoptive Parents, or other Caretakers	Not addressed.	Foster parents, preadoptive parents, and relative caretakers of children must receive notice of and an opportunity to be heard at reviews and hearings regarding the child's status. They do not, however, become a party to the case (section 104).
Criminal Background Checks	Not addressed.	Each state's IV-E plan must include procedures for conducting criminal background checks for foster parents and adoptive parents. For some crimes, approval would be denied if the crime were committed during the last five years, while for other crimes, approval would be denied regardless of the date of the criminal act. States may opt out of this provision (section 106). —
Clarification of Independent Living Services Eligibility	Not addressed.	Clarifies that children shall continue to be eligible for independent living services even if they have accumulated assets up to \$5,000 which would otherwise be counted for eligibility purposes (section 304).

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Family Preservation and Support	Not addressed, except to note the need for family services.	Reauthorizes Family Preservation and Support (FP/S) for three years (FY99 through FY2001) at essentially the same levels as in current law with minor increases each year. The program is renamed "Promoting Safe and Stable Families" and two additional categories of services are added, time-limited family reunification services and adoption promotion and support services. In addition, the state plans for the program must include an assurance that the safety of the child shall be of paramount concern in services provided under this program (section 305).
Health Insurance Coverage for Adopted Special Needs Children	Not addressed.	States' IV-E plans must provide for health insurance coverage for special needs children for whom there is a non-IV-E adoption assistance agreement in place (IV-E children already are eligible for Medicaid). Such coverage may be provided either through Medicaid or other means but must be comparable to Medicaid coverage. States may make cost sharing arrangements with adoptive parents for such coverage, taking into account adoptive parents' circumstances and the child's needs (section 306)
IV-E Eligibility for Special Needs Children Whose Adoptions Disrupt	Not addressed.	If a child placed in an adoptive home under a IV-E adoption assistance agreement comes back into the care of the state, the child's IV-E eligibility shall continue (section 307).
Quality Guidelines	Not addressed.	Each state shall, by January 1, 1999, develop and implement standards assuring that children are provided with quality services that protect their health and safety (section 308). This becomes a IV-E plan requirement.
Preservation of Reasonable Parenting	Not addressed.	Clarifies that nothing in this act is intended to intrude upon reasonable methods of parenting (section 401).

COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Standby Guardianships	Not addressed.	Provides a sense of the Congress that states should have standby guardianship laws (section 403).
Welfare Contingency Fund	Not addressed.	In order to pay for the various provisions of the bill, the welfare contingency fund is reduced by \$40 million spread over 5 years. This includes \$2 million in FY98, \$9 million in FY99, \$16 million in FY2000 and \$13 million in FY2001.
Report to Ways and Means and Finance Committees on the Coordination of Substance Abuse and Child Protective Services	Not addressed except to note the importance of substance abuse issues to the child protection field and the need for substance abuse services for families in the child welfare system.	Requires HHS to submit a report to Congress on this topic by one year after the date of enactment (section 405).
Sense of Congress Regarding the Purchase of American-Made Equipment and Products	Not addressed.	To the extent practicable all equipment and products purchased with funds under this act should be American-made (section 406).



Child Welfare League of America

Summary of The Adoption And Safe Families Act Of 1997 (P.L. 105-89)

On November 19, 1997, the President signed into law (P.L. 105-89) the Adoption and Safe Families Act of 1997, to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. This new law makes changes and clarifications in a wide range of policies established under the Adoption Assistance and Child Welfare Act (P.L. 96-272), the major federal law enacted in 1980 to assist the states in protecting and caring for abused and neglected children. The new law:

- ❑ **Continues and Expands the Family Preservation and Support Services Program.** The Family Preservation and Support Services Program, renamed the Promoting Safe and Stable Families Program, is reauthorized through FY 2001 at the following levels: FY 1999 at \$275 million; FY 2000 at \$295 million; and FY 2001 at \$305 million. The set-asides are maintained for the Court Improvement Program, evaluation, research, training, technical assistance, and Indian tribes. State plans are now also required to contain assurances that in administering and conducting service programs, the safety of the children to be served will be of paramount concern.

The new law further clarifies that for the purposes of the maintenance of effort requirement in the program, "non-federal funds" may be defined as either state or state and local funds. This change is made retroactive to the enactment of the Family Preservation and Support Services Program (P.L. 103-66) on August 10, 1993.

In addition to the funds to prevent child abuse and neglect and to assist families in crisis, the program's funds specifically include time-limited reunification services such as counseling, substance abuse treatment services, mental health services, assistance for domestic violence, temporary child care and crisis nurseries, and transportation to and from these services. Adoption promotion and support services are also included and are defined as pre- and post-adoptive services and activities designed to expedite the adoption process and support families.

- ❑ **Continues Eligibility for the Federal Title IV-E Adoption Assistance Subsidy to Children Whose Adoption is Disrupted.** Any child who was receiving a federal adoption subsidy on or after October 1, 1997, shall continue to remain eligible for the subsidy if the adoption is disrupted or if the adoptive parents die.
- ❑ **Authorizes Adoption Incentive Payments for States.** The Act authorizes \$20 million for each of FY 1999-2003 for payments to eligible states which exceed the average number of adoptions the state completed during FY 1995-FY 1997, or in FY 1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996. The amount of the bonus is \$4,000 for each foster child adopted and \$6,000 for each adoption of a child with special needs previously in foster care. To be eligible to receive these payments for FY 2001 or FY 2002, states are required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the state and the child's adoptive parents.
- ❑ **Requires States to Document Efforts to Adopt.** States are required to make reasonable efforts and document child specific efforts to place a child for adoption, with a relative or guardian, or in another planned permanent living arrangement when adoption is the goal. The law also clarifies that reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to reunify a child with his or her family.

Expands Health Care Coverage to Non-IV-E Eligible Adopted Children with Special Health

- ❑ **Expands Health Care Coverage to Non-IV-E Eligible Adopted Children with Special Health Care Needs.** States are required to provide health insurance coverage for any child with special needs for whom there is an adoption assistance agreement between the state and the adoptive parents and whom the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical, mental health, or rehabilitative care. The health insurance coverage can be provided through one or more state medical assistance programs including Medicaid and must include benefits of the same type and kind as provided under Medicaid. The state may determine cost sharing requirements.
- ❑ **Authorizes New Funding For Technical Assistance to Promote Adoption.** The U.S. Department of Health and Human Services (HHS) may provide technical assistance to states to promote the adoption, or other alternative permanent placement, of foster children. The technical assistance may include guidelines for expediting termination of parental rights; encouraged use of concurrent planning; specialized units and expertise in moving children toward adoption; risk assessment tools for early identification of children at risk of harm if returned home; encouraged use of fast tracking for children under age one into pre-adoptive placements; and programs to place children into pre-adoptive placements prior to termination of parental rights. At least half of the appropriated funds are reserved for providing technical assistance to the courts.
- ❑ **Addresses Geographic Barriers to Adoption.** States are required to assure that the state will develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption. The state's Title IV-E foster care and adoption assistance funding is conditioned on the state not denying or delaying a child's adoptive placement, when an approved family is available outside of the jurisdiction with responsibility for the child. Funding is also conditioned upon the state granting opportunities for fair hearings for allegations of violations of the requirements. The U.S. General Accounting Office must study and report to Congress on how to improve procedures and policies to facilitate timely adoptions across state and county lines.
- ❑ **Establishes Kinship Care Advisory Panel.** HHS is required to prepare and submit, by June 1, 1999, a report for Congress on the extent of the placement of children in foster care with relatives and to convene an advisory panel on kinship care to review and comment on the report before it is submitted.
- ❑ **Issues Sense of Congress on Standby Guardianship.** It is the Sense of Congress that states should have laws and procedures to permit a parent who is chronically ill or near death to designate a standby guardian for their child, without surrendering their own parental rights. The standby guardian's authority would take effect upon the parent's death, mental incapacity, or physical debilitation and consent.
- ❑ **Establishes New Time Line and Conditions for Filing Termination of Parental Rights.** Federal law did not require states to initiate termination of parental rights proceedings based on a child's length of stay in foster care. Under the new law, states must file a petition to terminate parental rights and concurrently, identify, recruit, process and approve a qualified adoptive family on behalf of any child, regardless of age, that has been in foster care for *15 out of the most recent 22 months*. A child would be considered as having entered foster care on the earlier of either the date of the first judicial finding of abuse or neglect, or 60 days after the child is removed from the home.

This new requirement applies to children entering foster care in the future and to children already in care. For children already in care, states are required to phase in the filing of termination petitions beginning with children for whom the permanency plan is adoption or who have been in care the longest. One third must be filed within six months of the end of the state's first legislative session following enactment of this law, two-thirds within 12 months and all of them within 18 months. A state must also file such a petition if a court has determined that an infant has been abandoned (as defined in state law) or if a court has determined that a parent of a child has assaulted the child, or killed or assaulted another one of their children. Exceptions can be made to these requirements if: (1) at the state's option, a child is being cared for by a relative; (2) the state agency documents in the case plan which is available for court review, a compelling reason why

agency documents in the case plan which is available for court review, a compelling reason why filing is not in the best interest of the child; or (3) the state agency has not provided to the child's family, consistent with the time period in the case plan, the services deemed necessary to return the child to a safe home.

- **Sets New Time Frame for Permanency Hearings.** Former federal law required a dispositional hearing within 18 months of a child's placement into out-of-home care. The new law establishes a permanency planning hearing for children in care that occurs within 12 months of a child's entry into care. At the hearing, there must be a determination of whether and when a child will be returned home, placed for adoption and a termination of parental rights petition will be filed, referred for legal guardianship, or another planned permanent living arrangement if the other options are not appropriate.
- **Modifies Reasonable Efforts Provision in P.L. 96-272.** States continue to be required to make reasonable efforts to preserve and reunify families. In making decisions about the removal of a child from, and the child's return to, his or her home, the child's health and safety shall be the paramount concern. The *reasonable efforts requirement does not apply in cases in which a court has found that:*
 - the parent has subjected the child to "aggravated circumstances" as defined in state law (including but not limited to abandonment, torture, chronic abuse, and sexual abuse);
 - the parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent;
 - the parent has committed a felony assault that results in serious bodily injury to the child or another one of their children; or
 - the parental rights of the parent to a sibling have been involuntarily terminated

In these cases, states would **NOT** be required to make reasonable efforts to preserve or reunify the family but are required to hold a permanency hearing within 30 days and to make reasonable efforts to place the child for adoption, with a legal guardian, or in another permanent placement.

- **Requires States to Check Prospective Foster and Adoptive Parents for Criminal Backgrounds.** States are required to provide procedures for criminal record checks for any prospective foster or adoptive parents, before the parents are approved for placement of a child eligible for federal subsidies. When a criminal record check reveals a felony conviction for child abuse or neglect, spousal abuse, another crime against a child (including child pornography), rape, sexual assault, or homicide, final approval of foster or adoptive parent status shall not be granted. In a case of a felony conviction for physical assault, battery, or a drug-related offense that was committed in the past five years, approval could not be granted. States can opt out of this provision either through a written notice from the Governor to HHS, or through state law enacted by the state legislature.
- **Requires Notice of Court Reviews and Opportunity to be Heard to Foster Parents, Preadoptive Parents and Relatives.** A foster parent, any preadoptive parent or relative caring for a child must be given notice of, and an opportunity to be heard in, any review or hearing involving the child. This provision does not require that any foster or preadoptive parent or relative be made a party to such a review or hearing.
- **Directs States to Establish Standards to Ensure Quality Services.** By January 1, 1999, states are required to develop and implement standards to ensure that children in foster care placements in public and private agencies are provided quality services that protect the safety and health of the children.
- **Requires Assessment of State Performance in Protecting Children.** HHS will develop, in consultation with governors, state legislatures, state and local public officials and child welfare advocates, a set of outcome measures to be used to assess the performance of states in operating child protection and child welfare programs to ensure the safety of children and a system for rating

the performance of states with respect to the outcome measures. HHS must submit an annual report to Congress on state performance including recommendations for improvement. The first report is due May 1, 1999. Outcome measures include length of stay in foster care and number of foster placement adoptions; and, to the extent possible, are to be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS).

- **Directs Development of Performance-Based Incentive Funding System.** HHS, in consultation with public officials and child welfare advocates, is required to develop and recommend to Congress a performance-based incentive system for providing payments under Title IV-B and Title IV-E of the Social Security Act by February 1999, and to submit a progress report on the feasibility, timetable and consultation process for conducting such a study by May 1998.
- **Expands Child Welfare Demonstration Waivers.** Under previous law, HHS has authority to approve up to ten child welfare demonstration waivers. Eight states (CA, DE, IL, IN, MD, NC, OH, OR) have received approval to date. This new law authorizes HHS to conduct up to 10 demonstration projects per year from FY 1998 through 2002. Specific types of demonstrations to be considered include: projects designed to identify and address reasons for delay in adoptive placements for foster children; projects designed to address parental substance abuse problems that endanger children and result in placement of a child in foster care; and projects designed to address kinship care. Eligibility for these waivers is not available if a state fails to provide health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement.
- **Requires Study on the Coordination of Substance Abuse and Child Protection.** HHS will prepare a report which describes the extent and scope of the problem of substance abuse in the child welfare population, the types of services provided to this population, and the outcomes resulting from the provision of such services, including recommendations for legislation needed to improve coordination in providing such services.
- **Authorizes the Use of the Federal Parent Locator Service.** Child welfare agencies can now use the Federal Parent Locator Service to assist in locating absent parents.
- **Extends Independent Living Services.** Young people who are no longer eligible for federal foster care assistance because their savings and assets exceed \$1,000, will still be eligible for independent living services, provided their assets do not exceed \$5,000.
- **Funding Source.** The provisions of this law are partially funded (\$40 million over four years) from an adjustment to the \$2 billion Federal Contingency Fund for State Welfare Programs, created by the 1996 welfare law (P.L. 104-193). HHS is also required to make recommendations to Congress by March 1, 1998, for improving the operation of the Contingency Fund for State Welfare Programs.
- **Effective Date:** The provisions of this new law became effective on November 19, 1997, except for the provisions dealing with termination of parental rights, disrupted adoptions, and the definition of nonfederal funds under family preservation. States have until the close of the next regular session of the state legislature to pass any state laws to comply with the new state plan requirements imposed by this law.

For more information please contact the public policy department at the Child Welfare League of America at (202)638-2952 or e-mail: HN4742@handsnet.org.

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Administration
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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

1. Log No: ACYF-CB-PI-98-07

2. Issuance Date: 04/30/98

3. Originating Office: Children's Bureau

4. Key Words: Adoption, Bonus, Incentive, Baseline, Increment

PROGRAM INSTRUCTION

TO: State Agencies Administering Title IV-E of the Social Security Act

SUBJECT: Procedures for Establishing Adoption and Guardianship Baselines to Implement the Presidential Initiative, Adoption 2002 and the Requirements of the Adoption and Safe Families Act of 1997

LEGAL AND RELATED

REFERENCES: The Adoption and Safe Families Act of 1997 (Public Law 105-89); Sections 473A and 473(a)(1)(B)(ii) of Title IV-E of the Social Security Act; Adoption 2002, A Response to the Presidential Executive Memorandum on Adoption, issued December 14, 1996; and 45 CFR 1355.40. This Program Instruction (PI) supplements Information Memorandum, ACYF-CB-IM-97-05, issued July 7, 1997. (To the extent that there is an inconsistency between ACYF-CB-IM-97-05 and this PI, this issuance supersedes.)

PURPOSE: The purpose of this PI is to provide information to the States about adoption incentive payments authorized by the Adoption and Safe Families Act (ASFA), *establishing* adoption and guardianship baseline data, calculating bonuses and setting targets for implementing the President's Adoption Initiative, Adoption 2002.

BACKGROUND:

In December 1996, the President introduced the Adoption 2002 initiative. This initiative is a collaborative undertaking between the States and the Federal government to double the number of children adopted or placed for guardianship by the year 2002 as compared to the same such permanent placements made in fiscal year (FY) 1997. The joint effort is meant to engage Federal, State and local governments, child welfare and adoption professionals, community leaders and other interested citizens

in creative and meaningful activities to improve the lives of children who are backlogged, or at risk of being backlogged, in the child welfare system, by creating permanent homes for them.

As part of the Adoption 2002 initiative, the President directed the Department to develop a proposal for a per-child financial incentive to States to increase adoptions from State foster care systems. The proposal included providing an additional sum of money to the State child welfare agency for every child adopted from the public child welfare system in excess of each year's established baseline. That proposal, with some modifications by the Congress, was included in ASFA. The incentive funds—\$4,000 per adopted child and an additional \$2,000 per adopted title IV-E special needs child—will only be paid to the State agency for finalized adoptions. Up to \$20 million per year for five years, between FYs 1999 and 2003, is authorized to be available to the States. Although Adoption 2002 emphasizes the establishment of permanency through both adoption and guardianship, ASFA restricts the bonus incentives to finalized adoptions. Nevertheless, States are required to set baselines and numerical targets to be achieved for the number of guardianships completed as well as adoptions finalized for the purposes of the Adoption 2002 initiative.

STATUTORY REQUIREMENTS

A State is eligible for an adoption incentive payment for a fiscal year if:

1. the State has an approved plan under title IV-E;
2. the number of foster child adoptions from the public child welfare system finalized during the fiscal year exceeds the baseline established for that year;
3. except in the initial year of a State's participation in the adoption incentive program, the determination of the number of children adopted each year, FY 1998 through FY 2002, is made on the basis of the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submissions in compliance with Federal regulations at 45 CFR 1355.40;¹ and
4. in FY 2001 and FY 2002, the State provides health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the State and the child's adoptive parent(s).

The incentive funds will be paid to the States in the year following the year in which they are earned. The incentive money will be available for use by the State for any activity or service which is allowable under titles IV-B or IV-E of the Social Security Act (SSA) and requires no matching State funds. Regardless of when during the fiscal year the incentive funds are received, they must be liquidated by the end of the succeeding fiscal year.

INSTRUCTIONS:

The following provides definitions of the terms used for the purpose of establishing the baseline and providing the incentive funds:

Adoption--For purposes of this PI, adoption means the final legalized adoption of a child who, at the time of adoptive placement, was in foster care under the responsibility or supervision of the State.

¹ Adoption data element # 34, category 1, will be used to identify adoptions from the public foster care system.

FY 1998 Baseline--The average number of children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1998 Special Needs Baseline--The average number of title IV-E special needs children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1999 - FY 2002 Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized adoptions from the State child welfare agency foster care program, beginning with FY 1997.

FY 1999 - FY 2002 Special Needs Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized special needs adoptions from the State child welfare agency title IV-E foster care program, beginning with FY 1997.

Fiscal Year--Fiscal year means Federal fiscal year (October 1 through September 30).

Guardianship--Guardianship is the judicially created relationship between a child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control, custody, and decision-making. For purposes of establishing a baseline and counting completed guardianship arrangements, only those children being released from foster care under the responsibility or supervision of the State should be counted.

Special Needs Child(ren)--A special needs child is one whose adoption has been finalized and for whom there is a title IV-E adoption assistance agreement under section 473(a)(1)(B)(ii) of the Social Security Act.

ESTABLISHING THE BASELINE AND INCREMENTS:

A. ADOPTION INCENTIVE PROGRAM

The process for establishing adoption incentive baselines is based on the following principles:

- The law requires that AFCARS be the sole source of data to determine State baselines, except for the initial FY 1998 baseline. For FY 1998, this data may come from other sources and must be derived through consultation between the States and the ACF Regional Office and Central Office staff. Any adoption data source(s) proposed as an alternative to AFCARS for the FY 1998 baseline must be documented to be of equivalent completeness and reliability.
- Separate baselines are to be established for total foster child adoptions and, of these, the number of title IV-E special needs adoptions.
- The FY 1998 baseline data will be the average of the number of finalized adoptions during FYs 1995, 1996 and 1997, as mandated by statute. At the end of FY 1998, that baseline, for practical purposes, will cease to exist.

- Beginning in FY 1999, the baseline data will consist of the greatest annual number of qualifying adoptions for any single fiscal year from FY 1997 or later. Thus, if the number of adoptions completed in FY 1998 does not surpass the number of adoptions completed in FY 1997, the new baseline for FY 1999 will be the number of adoptions completed in FY 1997.
- Although incremental targets are to be established for the Adoption 2002 initiative, it will be the actual number of a State's finalized adoptions, and not the proposed increments or the relationship between the actual numbers and the proposed increments, that will determine the final amount of the incentive awards.

Developing Adoption Incentive Baselines for FY 1998

With assistance from ACF Regional Offices and using ACYF-CB-IM-97-05 as guidance, States began establishing FY 1998 baselines based on FY 1997 data. However, ASFA expanded the FY 1998 baseline requirement to include the average number of adoptions finalized in fiscal years 1995, 1996, and 1997. Baselines must be established counting all children adopted from the State child welfare agency foster care system in those years.

Establishing Subsequent Baselines

The baselines for each of the fiscal years after 1998 will be calculated based on the greatest number of adoptions finalized by the State from FY 1997 to the fiscal year prior to the current fiscal year. If a State does not make a submission for FY 1998 incentive awards and/or a State chooses not to participate during the initial year(s) of the incentive program, it may choose to establish initial baselines in any year up to and including FY 2002. However, only AFCARS data can be used for baseline data after FY 1998.

Amount of Incentives

Every State that meets the requirements established in section 473A of the Social Security Act and this PI with an approved FY 1998 baseline will receive incentive funds as follows (see attached Table 1):

For FY 1998, the sum of:

- A) \$4,000 for every qualified child adopted over the FY 1998 baseline, and
- B) \$2,000 for every special needs child adopted over the FY 1998 special needs baseline.

For FYs 1999 through 2002, the sum of:

- A) \$4,000 for every qualified child adopted over the baseline established for that year, and
- B) \$2,000 for every special needs child adopted over the special needs baseline established for that year.

Calculation of Incentive Payments (See Table 1)

The actual amount of incentive funds earned cannot be calculated until each State's AFCARS data has been submitted after the end of the fiscal year for which the funds will be awarded. The funds will not, therefore, be paid out until the year following the year in which they have been earned. Thus,

incentive funds earned in FY 1998 will be paid to the States in FY 1999, as soon as possible after their AFCARS submissions for FY 1998 have been processed and reviewed. This may not occur until the latter part of the fiscal year.

After all of the States have submitted their data, further analysis of the potential incentives to be paid out must also be undertaken by ACF before final payments are issued to ensure that the total amount payable to all States does not exceed the annual amount of incentive funds appropriated by Congress. Pub. L. 105-89 authorizes an annual appropriation of \$20 million for payment in fiscal years 1999-2003. Should the total amount of incentives earned exceed the actual annual appropriation, the final amount of the incentive payable to each State will be a *pro rata* share of the total appropriation based on the percentage of the national incentive earned by that State.

Expenditure of Incentive Bonuses

The funds awarded for adoption incentive bonuses must be expended by the end of the fiscal year following the fiscal year in which they are awarded. This means that incentive funds earned in FY 1998 and awarded in FY 1999 must be fully liquidated by September 30, 2000. Information on the procedures for claiming and awarding of the adoption incentive funds as well as for reporting fiscal and program uses of the funds will be provided in a subsequent issuance.

B. ADOPTION 2002

The process for establishing adoption and guardianship baselines and increments for the Adoption 2002 initiative is based on the following principles:

- Separate baselines will be established for FY 1997 for: (1) the total number of finalized foster child adoptions, (2) the total number of title IV-E special needs adoptions, and (3) the total number of guardianships.
- AFCARS is the primary source of data to determine the State FY 1997 baselines for the Adoption 2002 initiative. However, if the State has not reported data to AFCARS, or if the State and the Central Office statistical staff or Regional Office staff agree that the reported data are unreliable, the State may propose the use of alternative data sources to determine the baselines. The proposed alternative to AFCARS for the FY 1997 baseline must be documented to be of equivalent completeness and reliability.
- Interim targets will be set for the numbers of finalized adoptions and guardianships during each of the five years after FY 1997. Setting interim numerical targets for adoptions, including title IV-E special needs adoptions and guardianships by the year 2002, is primarily the responsibility of the States. ACF Regional and Central Office staff will provide assistance, as appropriate and requested. (See attached Table 2 and ACYF-CB-IM-97-05.)
- The goal to be reached in FY 2002 is determined by doubling the FY 1997 baseline numbers for finalized adoptions and guardianships.
- Although not relevant for incentive awards, it is necessary to determine the baselines and establish the increments in order to measure the progress toward and the degree of successful achievement of the Adoption 2002 goals.

Incremental Targets for Adoption 2002

In consultation with the Regional Offices, States are to propose increments in the target numbers for increasing adoptions and guardianships from FY 1998 through FY 2002. The proposed increments will help the States monitor their progress and help ACF project the likelihood of success and determine areas where additional technical assistance may be needed. The increments do not need to be the same number or rate for each year. The impact of child welfare demonstration waivers and the implementation of other ASFA provisions should be taken into consideration when developing and evaluating increments. Increments should be calculated to lead to at least a doubling of the number of permanent placements in 2002, that is, a 100 percent increase, compared to the number of permanent placements finalized in FY 1997. If a State plans to set a goal to more than double the numbers and desires to establish yearly targets to do so, Federal child welfare staff will work with them to achieve this.

The States and Regional Offices should work together to establish the increments and develop plans for achieving them. This should begin as soon as possible after the baseline has been established. Central Office staff are available for consultation and for the review of increments upon request by the Regional Offices. As experience and knowledge are gained, States may choose to amend or supplement their procedures or change their incremental targets. The Regional Offices will work with the States in accomplishing this and notify Central Office of such changes.

DUE DATES:

Adoption Incentive Baseline Data Deadline:

Section 473A(c)(2)(B) of the SSA requires that baseline data for the adoption incentive program be submitted by November 30, 1997. This is clearly impossible since the effective date of the legislation was November 19, 1997. Technical amendments are currently before the Congress to change this date. In the meantime, since the data has to be approved by the Secretary by July 1, 1998, States are encouraged to submit their data as soon as possible.

Adoption 2002 Baseline Data Deadline:

The Adoption 2002 increments, targets and the plans for achieving them should be transmitted to the Regional Offices by July 1, 1998.

INQUIRIES TO: ACF Regional Administrators


James A. Harrell
Deputy Commissioner
Administration on Children, Youth and
Families

Table 1 illustrates how the incentive works.

Adoptions Finalized and Incentive Bonuses Paid for State XYZ for FYs 1998 Through 2002

STATE XYZ	1995	1996	1997	AVG	1998	1999	2000	2001	2002
1. Established Baseline					100	150	150	160	190
2. Established Special Needs Baseline					50	75	90	100	115
3. Total Number of Adoptions	78	106	117	100	150	148	160	190	238
4. Number of Special Needs Adoptions	34	56	59	50	75	90	100	115	160
5. Bonus Payment [(L3 - L1) x \$4,000]					200,000	**	40,000	120,000	192,000
6. Special Needs Bonus Payment * [(L4 - L2) x \$2,000]					\$50,000	**	\$20,000	\$30,000	\$90,000
7. Total Bonus [Line 5 + Line 6]					250,000	**	60,000	150,000	282,000

*Special needs bonus payments are made only if Line 3 exceeds Line 1, and Line 4 exceeds Line 2.

** No bonus payments are made because the total number of adoptions for fiscal year 1999 did not exceed the baseline for the year.

Please note the following situations reflected in the table:

- Each year's awards are considered on their own.
- Incentives are not paid out until the year after they have been earned.
- In this example, the baselines for the 1998 incentives are 100 and 50. Because the 1997 achievements were 117 and 59, however, no year's established baselines (other than 1998) could fall below 117 and 59 for purposes of earning the incentive funds.

The following table indicates how the baselines and incremental targets for adoption and guardianship may be structured:

1997 Baseline Data: 117 Adoptions
 30 Guardianships
 147 Permanent Placements

Goals for 2002: 234 Adoptions
 60 Guardianships
 294 Permanent Placements

Table 2 illustrates how a State may set its incremental targets.

State XYZ's Incremental Targets for Doubling Permanent Placements

STATE XYZ	1997	1998	1999	2000	2001	2002
1. Total Adoptions Baseline	117	117	134	152	174	203
2. Total Projected Increase		+17	+18	+22	+29	+31
3. Special Needs ** Adoption Baseline	59	59	65	75	87	105
4. Special Needs Portion** of Projected Increase		+6	+10	+12	+18	+22
5. Total Target Adoptions [L1 + L2]		134	152	174	203	234
6. Guardianship Baseline	30	30	35	39	45	53
7. Guardianship Projected Change		+5	+4	+6	+8	+7
8. Target Guardianships		35	39	45	53	60
9. Total Projected Permanent Placements [L5 + L8]	147	169	191	219	256	294

** The numbers in Lines 3 and 4 are subsets of the numbers in Lines 1 and 2 respectively.

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

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3. Originating Office: Children's Bureau

4. Key Words: Adoption, Bonus, Incentive, Baseline, Increment

PROGRAM INSTRUCTION

TO: State Agencies Administering Title IV-E of the Social Security Act

SUBJECT: Procedures for Establishing Adoption and Guardianship Baselines to Implement the Presidential Initiative, Adoption 2002 and the Requirements of the Adoption and Safe Families Act of 1997

**LEGAL AND
RELATED
REFERENCES:**

The Adoption and Safe Families Act of 1997 (Public Law 105-89); Sections 473A and 473(a)(1)(B)(ii) of Title IV-E of the Social Security Act; Adoption 2002, A Response to the Presidential Executive Memorandum on Adoption, issued December 14, 1996; and 45 CFR 1355.40. This Program Instruction (PI) supplements Information Memorandum, ACYF-CB-IM-97-05, issued July 7, 1997. (To the extent that there is an inconsistency between ACYF-CB-IM-97-05 and this PI, this issuance supersedes.)

PURPOSE: The purpose of this PI is to provide information to the States about adoption incentive payments authorized by the Adoption and Safe Families Act (ASFA), *establishing* adoption and guardianship baseline data, calculating bonuses and setting targets for implementing the President's Adoption Initiative, Adoption 2002.

BACKGROUND:

In December 1996, the President introduced the Adoption 2002 initiative. This initiative is a collaborative undertaking between the States and the Federal government to double the number of children adopted or placed for guardianship by the year 2002 as compared to the same such permanent placements made in fiscal year (FY) 1997. The joint effort is meant to engage Federal, State and local governments, child welfare and adoption professionals, community leaders and other interested citizens

in creative and meaningful activities to improve the lives of children who are backlogged, or at risk of being backlogged, in the child welfare system, by creating permanent homes for them.

As part of the Adoption 2002 initiative, the President directed the Department to develop a proposal for a per-child financial incentive to States to increase adoptions from State foster care systems. The proposal included providing an additional sum of money to the State child welfare agency for every child adopted from the public child welfare system in excess of each year's established baseline. That proposal, with some modifications by the Congress, was included in ASFA. The incentive funds—\$4,000 per adopted child and an additional \$2,000 per adopted title IV-E special needs child—will only be paid to the State agency for finalized adoptions. Up to \$20 million per year for five years, between FYs 1999 and 2003, is authorized to be available to the States. Although Adoption 2002 emphasizes the establishment of permanency through both adoption and guardianship, ASFA restricts the bonus incentives to finalized adoptions. Nevertheless, States are required to set baselines and numerical targets to be achieved for the number of guardianships completed as well as adoptions finalized for the purposes of the Adoption 2002 initiative.

STATUTORY REQUIREMENTS

A State is eligible for an adoption incentive payment for a fiscal year if:

1. the State has an approved plan under title IV-E;
2. the number of foster child adoptions from the public child welfare system finalized during the fiscal year exceeds the baseline established for that year;
3. except in the initial year of a State's participation in the adoption incentive program, the determination of the number of children adopted each year, FY 1998 through FY 2002, is made on the basis of the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submissions in compliance with Federal regulations at 45 CFR 1355.40;¹ and
4. in FY 2001 and FY 2002, the State provides health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the State and the child's adoptive parent(s).

The incentive funds will be paid to the States in the year following the year in which they are earned. The incentive money will be available for use by the State for any activity or service which is allowable under titles IV-B or IV-E of the Social Security Act (SSA) and requires no matching State funds. Regardless of when during the fiscal year the incentive funds are received, they must be liquidated by the end of the succeeding fiscal year.

INSTRUCTIONS:

The following provides definitions of the terms used for the purpose of establishing the baseline and providing the incentive funds:

Adoption--For purposes of this PI, adoption means the final legalized adoption of a child who, at the time of adoptive placement, was in foster care under the responsibility or supervision of the State.

¹ Adoption data element # 34, category 1, will be used to identify adoptions from the public foster care system.

FY 1998 Baseline--The average number of children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1998 Special Needs Baseline--The average number of title IV-E special needs children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1999 - FY 2002 Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized adoptions from the State child welfare agency foster care program, beginning with FY 1997.

FY 1999 - FY 2002 Special Needs Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized special needs adoptions from the State child welfare agency title IV-E foster care program, beginning with FY 1997.

Fiscal Year--Fiscal year means Federal fiscal year (October 1 through September 30).

Guardianship--Guardianship is the judicially created relationship between a child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control, custody, and decision-making. For purposes of establishing a baseline and counting completed guardianship arrangements, only those children being released from foster care under the responsibility or supervision of the State should be counted.

Special Needs Child(ren)--A special needs child is one whose adoption has been finalized and for whom there is a title IV-E adoption assistance agreement under section 473(a)(1)(B)(ii) of the Social Security Act.

ESTABLISHING THE BASELINE AND INCREMENTS:

A. ADOPTION INCENTIVE PROGRAM

The process for establishing adoption incentive baselines is based on the following principles:

- The law requires that AFCARS be the sole source of data to determine State baselines, except for the initial FY 1998 baseline. For FY 1998, this data may come from other sources and must be derived through consultation between the States and the ACF Regional Office and Central Office staff. Any adoption data source(s) proposed as an alternative to AFCARS for the FY 1998 baseline must be documented to be of equivalent completeness and reliability.
- Separate baselines are to be established for total foster child adoptions and, of these, the number of title IV-E special needs adoptions.
- The FY 1998 baseline data will be the average of the number of finalized adoptions during FYs 1995, 1996 and 1997, as mandated by statute. At the end of FY 1998, that baseline, for practical purposes, will cease to exist.

- Beginning in FY 1999, the baseline data will consist of the greatest annual number of qualifying adoptions for any single fiscal year from FY 1997 or later. Thus, if the number of adoptions completed in FY 1998 does not surpass the number of adoptions completed in FY 1997, the new baseline for FY 1999 will be the number of adoptions completed in FY 1997.
- Although incremental targets are to be established for the Adoption 2002 initiative, it will be the actual number of a State's finalized adoptions, and not the proposed increments or the relationship between the actual numbers and the proposed increments, that will determine the final amount of the incentive awards.

Developing Adoption Incentive Baselines for FY 1998

With assistance from ACF Regional Offices and using ACYF-CB-IM-97-05 as guidance, States began establishing FY 1998 baselines based on FY 1997 data. However, ASFA expanded the FY 1998 baseline requirement to include the average number of adoptions finalized in fiscal years 1995, 1996, and 1997. Baselines must be established counting all children adopted from the State child welfare agency foster care system in those years.

Establishing Subsequent Baselines

The baselines for each of the fiscal years after 1998 will be calculated based on the greatest number of adoptions finalized by the State from FY 1997 to the fiscal year prior to the current fiscal year. If a State does not make a submission for FY 1998 incentive awards and/or a State chooses not to participate during the initial year(s) of the incentive program, it may choose to establish initial baselines in any year up to and including FY 2002. However, only AFCARS data can be used for baseline data after FY 1998.

Amount of Incentives

Every State that meets the requirements established in section 473A of the Social Security Act and this PI with an approved FY 1998 baseline will receive incentive funds as follows (see attached Table 1):

For FY 1998, the sum of:

- A) \$4,000 for every qualified child adopted over the FY 1998 baseline, and
- B) \$2,000 for every special needs child adopted over the FY 1998 special needs baseline.

For FYs 1999 through 2002, the sum of:

- A) \$4,000 for every qualified child adopted over the baseline established for that year, and
- B) \$2,000 for every special needs child adopted over the special needs baseline established for that year.

Calculation of Incentive Payments (See Table 1)

The actual amount of incentive funds earned cannot be calculated until each State's AFCARS data has been submitted after the end of the fiscal year for which the funds will be awarded. The funds will not, therefore, be paid out until the year following the year in which they have been earned. Thus,

incentive funds earned in FY 1998 will be paid to the States in FY 1999, as soon as possible after their AFCARS submissions for FY 1998 have been processed and reviewed. This may not occur until the latter part of the fiscal year.

After all of the States have submitted their data, further analysis of the potential incentives to be paid out must also be undertaken by ACF before final payments are issued to ensure that the total amount payable to all States does not exceed the annual amount of incentive funds appropriated by Congress. Pub. L. 105-89 authorizes an annual appropriation of \$20 million for payment in fiscal years 1999-2003. Should the total amount of incentives earned exceed the actual annual appropriation, the final amount of the incentive payable to each State will be a *pro rata* share of the total appropriation based on the percentage of the national incentive earned by that State.

Expenditure of Incentive Bonuses

The funds awarded for adoption incentive bonuses must be expended by the end of the fiscal year following the fiscal year in which they are awarded. This means that incentive funds earned in FY 1998 and awarded in FY 1999 must be fully liquidated by September 30, 2000. Information on the procedures for claiming and awarding of the adoption incentive funds as well as for reporting fiscal and program uses of the funds will be provided in a subsequent issuance.

B. ADOPTION 2002

The process for establishing adoption and guardianship baselines and increments for the Adoption 2002 initiative is based on the following principles:

- Separate baselines will be established for FY 1997 for: (1) the total number of finalized foster child adoptions, (2) the total number of title IV-E special needs adoptions, and (3) the total number of guardianships.
- AFCARS is the primary source of data to determine the State FY 1997 baselines for the Adoption 2002 initiative. However, if the State has not reported data to AFCARS, or if the State and the Central Office statistical staff or Regional Office staff agree that the reported data are unreliable, the State may propose the use of alternative data sources to determine the baselines. The proposed alternative to AFCARS for the FY 1997 baseline must be documented to be of equivalent completeness and reliability.
- Interim targets will be set for the numbers of finalized adoptions and guardianships during each of the five years after FY 1997. Setting interim numerical targets for adoptions, including title IV-E special needs adoptions and guardianships by the year 2002, is primarily the responsibility of the States. ACF Regional and Central Office staff will provide assistance, as appropriate and requested. (See attached Table 2 and ACYF-CB-IM-97-05.)
- The goal to be reached in FY 2002 is determined by doubling the FY 1997 baseline numbers for finalized adoptions and guardianships.
- Although not relevant for incentive awards, it is necessary to determine the baselines and establish the increments in order to measure the progress toward and the degree of successful achievement of the Adoption 2002 goals.

Incremental Targets for Adoption 2002

In consultation with the Regional Offices, States are to propose increments in the target numbers for increasing adoptions and guardianships from FY 1998 through FY 2002. The proposed increments will help the States monitor their progress and help ACF project the likelihood of success and determine areas where additional technical assistance may be needed. The increments do not need to be the same number or rate for each year. The impact of child welfare demonstration waivers and the implementation of other ASFA provisions should be taken into consideration when developing and evaluating increments. Increments should be calculated to lead to at least a doubling of the number of permanent placements in 2002, that is, a 100 percent increase, compared to the number of permanent placements finalized in FY 1997. If a State plans to set a goal to more than double the numbers and desires to establish yearly targets to do so, Federal child welfare staff will work with them to achieve this.

The States and Regional Offices should work together to establish the increments and develop plans for achieving them. This should begin as soon as possible after the baseline has been established. Central Office staff are available for consultation and for the review of increments upon request by the Regional Offices. As experience and knowledge are gained, States may choose to amend or supplement their procedures or change their incremental targets. The Regional Offices will work with the States in accomplishing this and notify Central Office of such changes.

DUE DATES:

Adoption Incentive Baseline Data Deadline:

Section 473A(c)(2)(B) of the SSA requires that baseline data for the adoption incentive program be submitted by November 30, 1997. This is clearly impossible since the effective date of the legislation was November 19, 1997. Technical amendments are currently before the Congress to change this date. In the meantime, since the data has to be approved by the Secretary by July 1, 1998, States are encouraged to submit their data as soon as possible.

Adoption 2002 Baseline Data Deadline:

The Adoption 2002 increments, targets and the plans for achieving them should be transmitted to the Regional Offices by July 1, 1998.

INQUIRIES TO: ACF Regional Administrators

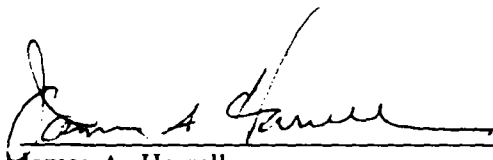

James A. Harrell
Deputy Commissioner
Administration on Children, Youth and
Families

Table 1 illustrates how the incentive works.

Adoptions Finalized and Incentive Bonuses Paid for State XYZ for FYs 1998 Through 2002

STATE XYZ	1995	1996	1997	AVG	1998	1999	2000	2001	2002
1. Established Baseline					100	150	150	160	190
2. Established Special Needs Baseline					50	75	90	100	115
3. Total Number of Adoptions	78	106	117	100	150	148	160	190	238
4. Number of Special Needs Adoptions	34	56	59	50	75	90	100	115	160
5. Bonus Payment [(L3 - L1) x \$4,000]					200,000	**	40,000	120,000	192,000
6. Special Needs Bonus Payment * [(L4 - L2) x \$2,000]					\$50,000	**	\$20,000	\$30,000	\$90,000
7. Total Bonus [Line 5 + Line 6]					250,000	**	60,000	150,000	282,000

*Special needs bonus payments are made only if Line 3 exceeds Line 1, and Line 4 exceeds Line 2.

** No bonus payments are made because the total number of adoptions for fiscal year 1999 did not exceed the baseline for the year.

Please note the following situations reflected in the table:

- Each year's awards are considered on their own.
- Incentives are not paid out until the year after they have been earned.
- In this example, the baselines for the 1998 incentives are 100 and 50. Because the 1997 achievements were 117 and 59, however, no year's established baselines (other than 1998) could fall below 117 and 59 for purposes of earning the incentive funds.

The following table indicates how the baselines and incremental targets for adoption and guardianship may be structured:

1997 Baseline Data: 117 Adoptions
 30 Guardianships
 147 Permanent Placements

Goals for 2002: 234 Adoptions
 60 Guardianships
 294 Permanent Placements

Table 2 illustrates how a State may set its incremental targets.

State XYZ's Incremental Targets for Doubling Permanent Placements

STATE XYZ	1997	1998	1999	2000	2001	2002
1. Total Adoptions Baseline	117	117	134	152	174	203
2. Total Projected Increase		+17	+18	+22	+29	+31
3. Special Needs ** Adoption Baseline	59	59	65	75	87	105
4. Special Needs Portion** of Projected Increase		+6	+10	+12	+18	+22
5. Total Target Adoptions [L1 + L2]		134	152	174	203	234
6. Guardianship Baseline	30	30	35	39	45	53
7. Guardianship Projected Change		+5	+4	+6	+8	+7
8. Target Guardianships		35	39	45	53	60
9. Total Projected Permanent Placements [L5 + L8]	147	169	191	219	256	294

** The numbers in Lines 3 and 4 are subsets of the numbers in Lines 1 and 2 respectively.



Children '98: America's Promise

Children Need Protection and Care More Than Ever

- In 1996, an estimated 3,126,000 children were reported abused or neglected.¹ From 1987 to 1996, the total number of children reported abused or neglected increased 45%.²
- Every day more than 3 children die as a result of abuse and neglect. In 1996, an estimated 1,046 children died of abuse and neglect; 82% of the children were under 5 years old and 43% never reached their first birthday. From 1985 to 1996, the rate of child fatalities due to abuse and neglect increased 20%.³
- At the end of 1996, an estimated 502,000 children lived in out-of-home care--family foster care, kinship care, or residential care--up 92% since 1982.⁴
- In 1995, 30% of all children in out-of-home care were between the ages of 1 and 5.⁵
- Children in foster care may wait three years or more to find permanent homes. Children wait almost a year from when they are legally free for adoption until they are placed in an adoptive home. In 1995, 27,115 children in foster care were adopted. Children still in care at the end of 1995 spent a median of 22 months in out-of-home care.⁶
- With more than one-half million children in out-of-home care, there were 164,980 licensed family foster homes in 1995.⁷
- Violence occurs against both women and children in the same family. Various studies indicate that between 50 and 70% of men who assaulted their wives also abused their children.⁸

Health Deficits, Lack of Insurance Impede Children's Development

- More than 11 million children lack health insurance.⁹ The majority of uninsured children with asthma and 1 in 3 uninsured children with recurring ear infections never see a doctor during the year.¹⁰
- Mental health problems affect 1 in 5 young people at any given time.¹¹ Approximately 60% of children in out-of-home care have moderate to severe mental health problems. A substantial number of these children have psychological problems so serious that they require residential placement. Despite this level of need, less than one-third of children in the child protective system are receiving mental health services.¹²
- Children from families involved with alcohol and other drugs tend to enter out-of-home care at a younger age and remain in care longer than other children.¹³
- As many as 80% of drug exposed infants will come to the attention of the child welfare system before their first birthday.¹⁴

Child Care Needs Include Availability, Quality

- More than 13 million children younger than 6--including 6 million babies and toddlers--spend some or all of their day being cared for by someone other than their parents.¹⁵

- some or all of their day being cared for by someone other than their parents.¹⁵
- More than 60% of women with children under age 6 and more than three-quarters of women with children between the ages of 6 and 17 were in the labor force in 1995.¹⁶
- The Government Accounting Office estimates that in the year 2002, the current school-age child care supply will meet as little as 25% of the demand in some urban areas.¹⁷
- Although there are many high-quality programs throughout the country, much of the child care currently available is of poor quality. Seven of 10 centers provide mediocre care, and 1 in 8 provides care that is so inadequate that it threatens the health and safety of children. Only 1 in 7 centers provides a level of care that promotes healthy development.¹⁸

Many Children and Families Face Harsh Economic Conditions

- One out of 5 (20.5%) children lived below the poverty line in 1996. The rate was down slightly from the 1995 rate (20.8%) but remained disproportionately high. Children made up 27% of the nation's population in 1996, but 40% of the poor. Nearly 1 in 4 children under age 6 (22.7%) lived below the poverty line in 1996.¹⁹
- The child poverty rate in 1996 was almost twice as high as that for elderly Americans. The poverty rate for children in the U.S. increased 36% between 1970 and 1996. During the same period, the poverty rate for those 65 years and older decreased 56%.²⁰
- Over the past three decades there has been a significant rise in income inequality. According to the U.S. Bureau of the Census, the household in the top 5 percentile in 1994 had 8 times the income of the household in the bottom 20th percentile, compared with 6 times as much in 1968.²¹
- Poverty among children in the suburbs has sharply risen. Between the late 1970s and early 1990s, the rate of poverty for young poor children living in the suburbs grew by nearly 60%, compared with urban (34%) and rural (45%) areas.²²
- Without government programs, 57.6 million people would have been poor in 1995. But when government benefits are counted—including food stamps, housing assistance, school lunch support, and benefits provided through the Earned Income Credit—the number of poor people drops to 30.3 million, cutting the size of the poverty population nearly 50%.²³

Serious Violence By Juveniles Down; Other Dangerous Behaviors Up

- The nationwide rate of juvenile violent crime fell for the second consecutive year in 1996 and the rate of homicide by juveniles decreased for the third year in a row.²⁴ Less than one-half of 1% of all persons ages 10 through 17 in the United States were arrested for a Violent Crime Index Offense in 1995.²⁵
- The overwhelming majority of juvenile arrests have nothing to do with violence. In 1996, only 5 out of every 100 juvenile arrests were for violent crimes. The most serious crimes, murder, non-negligent manslaughter and rape, represented less than three-tenths of 1% of juvenile arrests.²⁶
- A Sacramento County, California study found that children ages 9-12 who were referred to child welfare were 67 times (6,700%) more likely to be arrested than other 9-to-12-year-olds. Fully half of all children arrested were from the 1.4% of all children who were known to child welfare.²⁷
- Violence is an increasingly dangerous threat to young people. In 1995, a child was killed by firearms every 100 minutes, and a total of 5,254 children (ages 0-19) were killed by firearms during the year.²⁸
- The rate of illicit drug use among young people was 10.9% in 1995.²⁹ Since 1991, illicit drug use

- among 8th graders has more than doubled. More than half of 8th graders nationwide say they have used alcohol, while 1 in 5 report being drunk during the last year. By 12th grade, half the students surveyed say they have been drunk during the past year, while almost a third report being drunk within the past month.³⁰
- Smoking has substantially increased since 1991, particularly among junior high school students. Half of all 8th graders have tried smoking, while regular smoking has jumped 50% among this age group in the past five years. One in 3 high schoolers smokes regularly, while 1 in 8 smokes at least half a pack a day.³¹
- After increasing steadily between 1986 and 1991, the birth rate for 15- to 17-year-olds declined slightly each year from 1991 to 1996. At 54.7 births per 1,000 females ages 15-19, the teen birth rate has not yet declined to the level reached in the mid-1980s (50.2), and declines in some states are quite small. However, declines are now apparent in all states.³²

Cost-Effective Investments in Children Save Dollars and Lives

- By improving infants' health, early and comprehensive prenatal care saves \$3 for every one dollar invested.³³
- Childhood immunizations save on average \$10 for every one dollar invested in hospitalizations and other treatments.³⁴
- For each dollar spent for substance abuse treatment services, more than \$11 are saved in social costs.³⁵
- Treatment of substance abusers in the California public system in 1991 saved \$1.4 billion in reduced criminal activity and health care utilization over a two-year period. About \$209 million was spent providing this treatment, a 7 to 1 ratio of benefits to costs.³⁶ Outpatient treatment of substance abuse costs only 1/10 as much as incarceration.³⁷
- High quality programs for young children living in poverty have lasting benefits and a significant return on investment. A longitudinal study of one such high quality program found a \$7.16 return for each dollar invested. Some of the savings were due to reduced special education and welfare costs and higher future worker productivity.³⁸

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