



No. S-1195

**Memorandum**

September 19, 1997

**SUBJECT : Comparison of Pending Adoption Proposals and Current Law**

**FROM : Karen Spar**  
Specialist in Social Legislation  
Education and Public Welfare Division

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This memorandum compares provisions of selected adoption-related legislation pending in the 105<sup>th</sup> Congress, with provisions of current law. The pending proposals are intended to promote adoption for foster children and make additional improvements in the child welfare system. The legislation would primarily amend child welfare, foster care, and adoption assistance programs under Titles IV-B and IV-E of the Social Security Act. However, certain provisions of the Child Abuse Prevention and Treatment Act (CAPTA) and other statutes also are relevant and are included in the side-by-side. Unless indicated otherwise, references to current law in the comparison are to Titles IV-B or IV-E of the Social Security Act.

Bills included in the comparison are the:

- Adoption Promotion Act of 1997 (H.R. 867), passed by the House on April 30, 1997, by a vote of 416-5;
- Safe Adoptions and Family Environments (SAFE) Act (S. 511), introduced on March 20, 1997; and
- Promotion of Adoption, Safety, and Support for Abused and Neglect Children (PASS) Act (S. 1195), introduced on September 18, 1997.

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*This memorandum was prepared by the Education and Public Welfare Division to enable distribution to more than one congressional client.*

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| Provision                                                       | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <b>I. "Reasonable Efforts" and Child Safety Provisions</b>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>1. "Reasonable efforts" to preserve and reunify families</b> | <p>In every case, states must make "reasonable efforts" to avoid the need to remove a child from home, and to make it possible for a child to return home after placement in foster care — Sections 471(a)(15), 472(a)(1).</p> <p>Under CAPTA, no later than October 3, 1998, states must have provisions, procedures, and mechanisms in effect to assure that the state does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction to have killed or assaulted another of their children — Section 106(b)(2)(A)(xii) of CAPTA.</p> <p>States also must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental</p> | <p>States would continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement would not apply in cases in which a court has found that:</p> <ul style="list-style-type: none"> <li>• a child has been subjected to "aggravated circumstances" as defined in state law (which may include abandonment, torture, chronic abuse, sexual abuse);</li> <li>• a parent has killed or assaulted another of their children; or</li> <li>• a parent's rights to a sibling have been involuntarily terminated.</li> </ul> <p>In these cases, states would not be required to make reasonable efforts on behalf of any parent who has been involved in subjecting the child to these circumstances.</p> <p>Reasonable efforts to preserve or reunify families could be made concurrently with efforts</p> | <p>States would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety; and to reunify families unless a court determines that reunification would endanger the child's health or safety, or in cases specified in state law, such as:</p> <ul style="list-style-type: none"> <li>• cases in which a court has found that a parent has killed or assaulted another of their children; or</li> <li>• cases in which a court has found that a parent has abandoned, tortured, chronically abused, or sexually abused the child.</li> </ul> <p>By October 3, 1999, states must enact and enforce laws that specify cases (such as those listed above) in which reunification efforts would not be required, and in which grounds exist for expedited termination of parental rights without efforts to reunify the family — Section 102.</p> | <p>States would be required to make reasonable efforts when possible, to preserve families when the child can be cared for at home without endangering the child's health or safety; or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent:</p> <ul style="list-style-type: none"> <li>• if a court has determined that the parent has killed or assaulted another of their children; or</li> <li>• if a court has determined that returning the child home would pose a serious risk to their health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or previous involuntary termination of parental rights to a sibling); or</li> <li>• if the state has specified in legislation cases in which</li> </ul> |

| Provision                                          | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | H.R. 867 (House-passed)                                                                                                                    | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                            | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                    | rights) — Section 106(b)(2)(A)(xiii) of CAPTA.                                                                                                                                                                                                                                                                                                                                                                                                                                     | to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 9) — Section 2.              |                                                                                                                                                                                                                                                                                                                                | reasonable efforts would not be required. Reasonable efforts to preserve or reunify families could be made concurrently with reasonable efforts to place a child for adoption, with a qualified relative or legal guardian, or in another planned, permanent arrangement (see item 9) — Section 101. |
| <b>2. Consideration of child health and safety</b> | <p>No comparable provision in the Social Security Act.</p> <p>Under CAPTA, states must have provisions or procedures for reporting child abuse and neglect; for screening, assessing, and investigating such reports; and for ensuring and protecting the safety of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect and ensuring their placement in a safe environment — Section 106(b)(2)(A)(iii) of CAPTA.</p> | In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern — Section 2. | <p>In determining reasonable efforts, the child's health and safety must be the paramount concern — Section 102.</p> <p>In addition, current law would be amended to include references to child safety in provisions dealing with child welfare services, case plan and case review procedures — Sections 101(a) and 103.</p> | Same as S. 511 — Sections 101 and 102.                                                                                                                                                                                                                                                               |
| <b>3. Termination of parental rights</b>           | No comparable provision in the Social Security Act.                                                                                                                                                                                                                                                                                                                                                                                                                                | In the case of a child who is younger than 10 and has been                                                                                 | As stated in item 1, by October 3, 1999, states would                                                                                                                                                                                                                                                                          | <p>In the case of:</p> <ul style="list-style-type: none"> <li>• a child who has been in</li> </ul>                                                                                                                                                                                                   |

| Provision | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|           | <p>Under CAPTA, as stated in item 2, states must (by October 3, 1998) have provisions to assure that they will not require reunification of a surviving child with a parent who the court finds has killed or assaulted another of their children; and after such provisions are in effect, the state must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental rights) — Section 106(b)(2)(A)(xii) and (xiii) of CAPTA.</p> <p>In addition, by October 3, 1998, states must have provisions, procedures, and mechanisms for expedited termination of parental rights in the case of infants determined to be abandoned under state law — Section 106(b)(2)(A)(xi)(I) of CAPTA.</p> | <p>in foster care for 18 of the most recent 24 months, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, unless:</p> <ul style="list-style-type: none"> <li>• at the option of the state, the child is being cared for by a relative;</li> <li>• a state court or agency has documented a compelling reason for determining that filing such a petition would not be in the best interests of the child; or</li> <li>• the state has not provided the family with services deemed appropriate by the state (in cases where reasonable efforts to preserve or reunify the family have been required).</li> </ul> <p>This provision would apply only to children who enter foster care on or after October 1, 1997— Section 3.</p> | <p>be required to enact and enforce laws specifying cases (such as where a court has found that a parent has killed or assaulted another of their children, or has abandoned, tortured, chronically abused, or sexually abused the child) where grounds exist for expedited termination of parental rights without first requiring family reunification efforts — Section 102.</p> | <p>foster care for 12 of the most recent 18 months; or</p> <ul style="list-style-type: none"> <li>• a child who has been in foster care for a lifetime total of 24 months; or</li> <li>• an infant who is determined by the court to have been abandoned (as defined under state law); or</li> <li>• a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children;</li> </ul> <p>states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:</p> <ul style="list-style-type: none"> <li>• at the option of the state, the child is being cared for by a relative; or</li> <li>• a state court or agency has documented a compelling reason for determining that filing such a petition would</li> </ul> |

| Provision | Current law | H.R. 867 (House-passed) | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|           |             |                         |                     | <p>not be in the best interests of the child — Section 104(a).</p> <p>A child would be considered as having entered foster care on the later of:</p> <ul style="list-style-type: none"> <li>• the first date that the child is removed from home; or</li> <li>• the date of the first judicial hearing on the child's removal — Section 104(b).</li> </ul> <p>Nothing in Title IV-E, as amended by this legislation, would be construed as precluding state courts or agencies from initiating or finalizing termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests — Section 104(d).</p> <p>In general, this provision would apply to children entering foster care after the date of enactment. For children in foster care on or before the date of enactment, this provision would not apply</p> |

| Provision                          | Current law                                                                                                                                                                                                                                                                                               | H.R. 867 (House-passed) | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                               | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                             |
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|                                    |                                                                                                                                                                                                                                                                                                           |                         |                                                                                                                                                                                                                                                                                                                                                                   | until 1 year after the date of enactment. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(e).                                                                                                                                                                   |
| <b>4. Limitations on Appeals</b>   | No provision.                                                                                                                                                                                                                                                                                             | No provision.           | No provision.                                                                                                                                                                                                                                                                                                                                                     | States would be required to provide that orders terminating parental rights, and court-ordered child removals, would only be appealable during the 1-year period beginning on the date the order is issued. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(c). |
| <b>5. Child death review teams</b> | <p>No provision in the Social Security Act.</p> <p>Under CAPTA, states must designate at least 3 citizen review panels (small states must designate at least 1), which are representative of the local community. Existing entities such as foster care review boards or child death review teams may</p> | No provision.           | No later than 5 years after enactment, states would be required to certify that they have established and are maintaining a multidisciplinary state child death review team (and, if necessary, regional and local teams) to investigate child deaths, including those where there has been a prior report of abuse or neglect or there is reason to suspect that | <p>Same as S. 511, except:</p> <ul style="list-style-type: none"> <li>• states would have to certify that they have established and are maintaining child death review teams no later than 2 years after enactment;</li> <li>• death review teams would not be required to investigate deaths resulting from suicide,</li> </ul>                                                 |

| Provision                 | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                              | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                          |
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|                           | be designated if they can perform the required functions. These panels must examine policies and procedures of state and local agencies, and individual cases if appropriate, to determine if the agencies are operating in accordance with their state CAPTA plan, child protection standards, and any other criteria considered important by the panel, including a review of coordination between state child protection programs and foster care and adoption programs under the Social Security Act, and a review of child fatalities and near fatalities — Sections 106(b)(2)(A)(x) and 106(c) of CAPTA. |                                                                                                                                                                                                                                                                                                                      | the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency, or the death was a suicide, or the cause of death was unexplained or unexpected. In addition, HHS would be required to establish a federal child death review team (with representatives from other federal agencies) to investigate deaths on federal lands, review the status of state and local teams, provide guidance and technical assistance, review state and local data to identify national trends in child deaths, and make recommendations to prevent child deaths — Section 104. | or cases in which the cause of death was unexplained or unexpected;<br><ul style="list-style-type: none"> <li>responsibilities of the federal team would be limited to investigating deaths on federal lands, providing guidance and technical assistance to state and local teams upon request, and making recommendations to prevent child deaths — Section 103.</li> </ul> |
| 6. Criminal record checks | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | At state option, states could provide (as a component of their Title IV-E plan) procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally | Same as H.R. 867, except the provision would be mandatory for states, rather than optional — Section 205.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Same as S. 511 (i.e., provision would be mandatory for states), except: <ul style="list-style-type: none"> <li>S. 511 and H.R. 867 would require states to deny approval in certain cases where there has been a criminal conviction; however, the draft would allow states to</li> </ul>                                                                                     |



| Provision                                | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | H.R. 867 (House-passed)                                                                           | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                           |
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|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | approved for a placement of a child eligible for federal subsidies under Title IV-E — Section 17. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | grant approval in such cases if the individual could provide substantial evidence to law enforcement officials and the state child protection agency, proving extraordinary circumstances — Section 107.                                                                                                                                                       |
| 7. Guidelines for out-of-home care       | States are required to have an agency responsible for establishing and maintaining standards for foster homes and child care institutions, in accord with recommended standards of nation organizations, including standards related to safety and sanitation. States must periodically review these standards, and federal funds may only be provided on behalf of children placed in licensed or approved homes and institutions — Sections 471(a)(10) and (11) and 472(b). | No provision.                                                                                     | States would also be required to develop and implement guidelines to ensure safe, quality care for children in out-of-home settings, such as guidelines issued by a nationally recognized accrediting body; to assist providers in meeting these guidelines; to articulate the guidelines against which agency performance will be judged; monitor progress made toward meeting the guidelines; and judge agency compliance with the guidelines by measuring improvements in child and family outcomes and other appropriate measures — Section 206. | The current law provision, requiring states to have foster care standards, would be amended to require states to have guidelines as well as standards, and to require such guidelines and standards to ensure quality services that protect the safety and health of children in foster care placements with non-profit and for-profit agencies — Section 108. |
| <b>II. Adoption Promotion Provisions</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                |
| 8. Adoption incentive                    | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | The Secretary of Health and                                                                       | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Same as H.R. 867, except:                                                                                                                                                                                                                                                                                                                                      |

| Provision                                                                             | Current law   | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| payments                                                                              |               | Human Services (HHS) would be authorized to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in FY1997, or in a subsequent base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for each adoption of a foster child with special needs. For these incentive payments, \$15 million would be authorized for each of fiscal years 1999-2003. Relevant budget acts would be amended to require adjustments in discretionary spending limits — Section 4. |                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• adoption incentive payments would equal \$2,000 for each adoption of a foster child above the base number, and \$4,000 for each adoption of a foster child with special needs;</li> <li>• adjustments to discretionary spending limits would not be required — Section 201.</li> </ul> <p>Information required by the PASS Act would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 31).</p> |
| 9. "Reasonable Efforts" to place children for adoption or other permanent arrangement | No provision. | If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (or are no longer consistent with the child's permanency goal), then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another                                                                                                                                                                                                                                                                                               | When a child's permanency goal is adoption or another permanent placement, states would be required to make reasonable efforts to place the child in a timely manner for adoption, with a legal guardian, or in another planned, permanent arrangement, and to complete necessary steps to finalize the adoption or guardianship — | If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1, and placement with either parent would pose a serious risk to the child's health or safety, or in any case when a child's permanency goal is adoption or another permanent placement, then states would be required to make                                                                                                                                                                            |

| Provision                             | Current law   | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                         | S. 511 (Introduced)                                                                                           | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                       |               | <p>planned, permanent arrangement.</p> <p>Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, guardianship, or in another planned, permanent arrangement — Section 2.</p>                                                                                                                                                                                                                               | Section 301(a).                                                                                               | <p>reasonable efforts to place the child in a timely manner for adoption, with a qualified relative or legal guardian, or in another planned, permanent arrangement, and to complete whatever steps are necessary to finalize the adoption or legal guardianship.</p> <p>Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, guardianship, or in another planned, permanent arrangement — Section 101.</p> |
| 10. Documentation of efforts to adopt | No provision. | <p>For every child whose permanency goal is adoption or another permanent placement, states would be required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, legal guardian, or other permanent home (including the custody of a fit and willing relative); and to finalize the adoption or guardianship. The documentation must include child-specific recruitment efforts such as use of adoption</p> | Same as H.R. 867, except contains no reference to the custody of a fit and willing relative — Section 301(b). | Same as S. 511 — Section 109.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| Provision                                      | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | H.R. 867 (House-passed)                                                   | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | information exchanges, including electronic exchange systems — Section 7. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>11. Eligibility for adoption assistance</b> | Federally subsidized adoption assistance payments are made on behalf of children with special needs as defined by the state. Eligible children must have been eligible for Aid to Families with Dependent Children (AFDC) at the time adoption proceedings began (except that they had been removed from their family as a result of a voluntary agreement or judicial determination that remaining with the family would be contrary to their welfare), or must be eligible for Supplemental Security Income (SSI), or must be living in foster care with a minor parent who is eligible for foster care subsidies under Title IV-E. The amount of the adoption assistance payment made to an adoptive family is based on the needs of the child and the circumstances of the family, but may not exceed the foster care payment that the child would have been | No provision.                                                             | Federally subsidized payments would continue to be made on behalf of children with special needs as defined by the state. AFDC and SSI eligibility provisions would be deleted. Eligible children would be those who, prior to termination of parental rights and initiation of adoption proceedings, were in the care of a public or nonprofit agency or Indian tribe as a result of a voluntary agreement or judicial determination that remaining in the home would be contrary to their welfare, or were living in foster care with their minor parent. An otherwise eligible child who is not a U.S. citizen or resident would be eligible for assistance, except for children who were adopted outside the U.S. or brought to the U.S. to be adopted. An otherwise eligible child whose adoptive parent dies or whose adoption is disrupted would remain eligible for assistance — Section 303. | Same as S. 511, except: <ul style="list-style-type: none"> <li>• reiterates current law requirement that the child's special needs, together with the circumstances of the adoptive parents, must be considered in determining the amount of any payment to be made to the adoptive parents;</li> <li>• states would be required to spend an amount equal to any savings resulting from this provision to provide services to children and families (including post-adoption services) that are allowable under Titles IV-B or IV-E; and</li> <li>• otherwise eligible children in the custody of for-profit agencies would be eligible for adoption assistance under Title IV-E — Section 202.</li> </ul> |

| Provision                                           | Current law                                                                                                                                                                                                                                                                                                                                                  | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                       |
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|                                                     | eligible to receive — Section 473(a)(2).                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |                                                                                                                                                                                                                                                                            |
| <b>12. Technical assistance to promote adoption</b> | <p>No provision in the Social Security Act.</p> <p>Under the Adoption Opportunities program, HHS is authorized to enter into grants and contracts with public and private nonprofit agencies for various activities intended to promote adoption, particularly for special needs children — Title II of the Child Abuse and Adoption Reform Act of 1978.</p> | <p>HHS would be authorized to provide technical assistance to states and localities to promote adoption for foster children, including:</p> <ul style="list-style-type: none"> <li>• guidelines for expediting termination of parental rights;</li> <li>• encouraged use of concurrent planning;</li> <li>• specialized units and expertise in moving children toward adoption;</li> <li>• risk assessment tools for early identification of children who would be at risk of harm if returned home;</li> <li>• encouraged use of fast tracking for children under age 1 into pre-adoptive placements;</li> <li>• programs to place children into pre-adoptive placements prior to termination of parental rights.</li> </ul> <p>For technical assistance, \$10 million would be authorized for each of fiscal years 1998-2000 — Section 12.</p> | No provision.       | <p>Same as H.R. 867, except:</p> <ul style="list-style-type: none"> <li>• would also authorize technical assistance for development of programs to recruit adoptive parents; and</li> <li>• no authorization of appropriations would be included — Section 203.</li> </ul> |

| Provision                                 | Current law                                                                                        | H.R. 867 (House-passed)                                                                                            | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                             | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <b>13. Interstate adoption</b>            | No provision.                                                                                      | No provision.                                                                                                      | The Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of their appointment, including recommendations for improvements. The Secretary would forward the report to Congress, and, if relevant, make recommendations for legislation — Section 305. | <p>Same as S. 511, except for minor modifications in membership of advisory panel — Section 204(b).</p> <p>In addition, states would be required to provide that neither the state nor any other entity in the state that receives federal funds would:</p> <ul style="list-style-type: none"> <li>• deny to any person the opportunity to become an applicant for child custody, licensure as a foster or adoptive parent, or foster care or adoption assistance under Title IV-E on the basis of geographic residence; or</li> <li>• delay or deny the placement of a child for adoption, into foster care, or in the child's original home on the basis of geographic residence — Section 204(a).</li> </ul> |
| <b>III. Foster Care Provisions</b>        |                                                                                                    |                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>14. Foster care case review system</b> | The status of every child in foster care under state responsibility must be reviewed by a court or | States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of | <p>Same as H.R. 867, except:</p> <ul style="list-style-type: none"> <li>• states also would be required to hold subsequent</li> </ul>                                                                                                                                                                                                                                           | Same as S. 511 — Section 302.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Provision                                                                 | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                             | S. 511 (Introduced)                                                                                                                                                                                | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                |
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|                                                                           | administrative review at least every 6 months. In addition, no later than 18 months after the child enters care (and at least every 12 months thereafter), the court or a court-appointed body must hold a "dispositional" hearing to determine the child's future status, which can include returning home, continuing in foster care for a specified period, adoption, or, if warranted by the child's special needs or circumstances, long-term or permanent foster care — Section 475(5). | the current 18, and the name of the proceeding would be changed to "permanency" hearing. The hearing's purpose would be to determine the child's permanency goal, which could include returning home, referral for adoption and termination of parental rights, guardianship, or another planned, permanent arrangement, which could include the custody of a fit and willing relative — Section 5. | dispositional hearings at least every 6 months after the first such hearing, instead of the current 12; and<br>• includes no reference to the custody of a fit and willing relative — Section 302. |                                                                                                                                                                                                                                                                                                                                                     |
| 15. Participation in case reviews and hearings                            | Administrative reviews are open to the participation of a child's parents — Section 475(5).                                                                                                                                                                                                                                                                                                                                                                                                   | Foster parents and relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child, except that this provision would not be construed to make any foster parent a party to such a review or hearing — Section 6.                                                                                                   | No provision.                                                                                                                                                                                      | Same as H.R. 867, except would make explicit that relative caretakers also would not be considered parties to reviews or hearings, and that this provision would not be construed to make foster parents and relative caretakers parties to these proceedings solely on the basis of receiving notice and an opportunity to be heard — Section 105. |
| 16. Reunification services and reauthorization of the family preservation | Foster care maintenance payments that are eligible for federal reimbursement are                                                                                                                                                                                                                                                                                                                                                                                                              | No provision.                                                                                                                                                                                                                                                                                                                                                                                       | Foster care maintenance payments would also include costs of reunification services                                                                                                                | The family preservation and family support program under Title IV-B, Subpart 2, would                                                                                                                                                                                                                                                               |

| Provision          | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | H.R. 867 (House-passed) | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| program            | <p>defined as payments for the costs of food, clothing, shelter, supervision, school supplies, personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation — Section 475(4).</p> <p>Capped entitlement grants to states are authorized through FY1998 for community-based family support and family preservation services. States may spend up to 10% of their allotments for administrative costs, and are required to devote significant portions of remaining expenditures to each of the 2 types of services. \$240 million is available in FY1997, and \$255 million is authorized for FY1998. Funds have been set-aside for court improvement grants (\$5 million in FY1995, and \$10 million in each of FY1996-FY1998), and evaluation and research (\$6 million each year) — Title IV-B, Subpart 2.</p> |                         | <p>for up to 1 year after a child is removed from home. Reunification services would include services and activities provided to a child who has been removed from home, and the child's parents or primary caregiver to make family reunification possible, and would be limited to individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment, mental health services, assistance to address domestic violence, and transportation to and from such services — Section 304.</p> | <p>be reauthorized through FY2003, at the following levels: \$275 million in FY1999; \$295 million in FY2000; \$315 million in FY2001; \$335 million in FY2002; and \$355 million in FY2003. States would be required to devote at least 25% of their expenditures (after spending no more than 10% of their allotment for administrative costs) to each of the following 3 categories of services: community-based family support services, family preservation services, and time-limited family reunification services. Time-limited family reunification services would be defined as services provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than the 1-year period beginning on the date of their removal from home. The set-aside for court improvement grants would not be continued; the set-aside for evaluation and research would be continued — Section 307.</p> |
| 17. Staff training | Federal reimbursement is                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | No provision.           | Federal reimbursement could                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |



| Provision                                                        | Current law                                                                                                                                                                                                                                                                                                                                                   | H.R. 867 (House-passed)                                                                               | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | S. 1195 (Introduced)                                                                                         |
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|                                                                  | available to states for 75% of expenditures for training state and local child welfare personnel, individuals preparing for employment as state and local child welfare personnel, current or prospective foster or adoptive parents, and staff of child care institutions serving children eligible for Title IV-E subsidies — Section 474(a)(3)(A) and (B). |                                                                                                       | also include training directed at staff maintenance and retention, and training provided to personnel employed by courts, law enforcement agencies, substance abuse agencies, mental health providers, domestic violence agencies, health agencies, child care agencies, schools, and other agencies that are working with state or local child welfare agencies. Training expenditures could be reimbursed regardless of the primary provider and regardless of the proportion of Title IV-E-eligible children in the state. HHS would be required to issue guidelines for such training; states would document that their expenditures conform to these guidelines; and states could not reduce their own spending on training below FY1996 levels — Section 204. |                                                                                                              |
| <b>IV. System Accountability and Innovation Provisions</b>       |                                                                                                                                                                                                                                                                                                                                                               |                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                              |
| <b>18. Performance measures for state child welfare programs</b> | No provision.                                                                                                                                                                                                                                                                                                                                                 | The Secretary of HHS (in conjunction with the American Public Welfare Association, National Governors | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The Secretary of HHS would be required to issue an annual report, containing ratings of state performance in |

| Provision | Current law | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|           |             | <p>Association, and child advocates) would be required to develop outcome measures to assess state child welfare programs, and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS) — Section 10.</p> |                     | <p>protecting children, with the first report due on October 1, 1998. The Secretary would be required to develop outcome measures that could track state performance over time in the following categories:</p> <ul style="list-style-type: none"> <li>• number of placements for adoption, in foster care, with a relative or a guardian;</li> <li>• number of children who “age out” of foster care without having been adopted or placed with a guardian;</li> <li>• length of stay in foster care;</li> <li>• length of time between a child’s availability for adoption and actual adoption;</li> <li>• number of deaths and substantiated cases of child abuse or neglect in foster care;</li> <li>• specific steps taken by the state to facilitate permanence for children.</li> </ul> <p>States would be required to provide information on adoption, foster care, and guardianship, as determined</p> |

| Provision                               | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | H.R. 867 (House-passed)                                                                                                                                                                 | S. 511 (Introduced)                                                                                                                                                                                                | S. 1195 (Introduced)                                                                                                                                                                                                        |
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|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                         |                                                                                                                                                                                                                    | necessary by the Secretary — Section 206.<br><br>Information required by the PASS Act would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 31). |
| <b>19. Child welfare demonstrations</b> | <p>HHS is authorized to approve child welfare demonstrations in up to 10 states, in which states may request waivers of provisions under Titles IV-B and IV-E — Section 1130 of the Social Security Act.</p> <p>Under CAPTA, HHS is authorized to award demonstration grants to public or private nonprofit entities, including awards in not more than 10 states to develop procedures using adult relatives as the preferred placement for children removed from home — Section 105(a)(3)(B).</p> | The number of child welfare demonstrations would be increased to 15 states. At least one of the additional demonstrations would have to address the issue of kinship care — Section 11. | <p>The number of child welfare demonstrations would be increased to 15 states — Section 402.</p> <p>(In addition, capped entitlement funding would be provided for innovation grants to states — see item 20.)</p> | <p>Same as S. 511 — Section 301.</p> <p>(In addition, appropriations would be authorized for innovation grants to states — see item 20).</p>                                                                                |
| <b>20. Innovation grants</b>            | No provision in the Social Security Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                            | No provision.                                                                                                                                                                           | Up to \$50 million in entitlement funding would be available per fiscal year for                                                                                                                                   | Same as S. 511, except funding would be authorized to be appropriated in FY1998                                                                                                                                             |

| Provision | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | H.R. 867 (House-passed) | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | S. 1195 (Introduced)                                                              |
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|           | <p>Under CAPTA, HHS is authorized to enter into grants or contracts with public and private nonprofit entities for time-limited demonstration programs and projects for the following purposes:</p> <ul style="list-style-type: none"> <li>• training for professionals and paraprofessionals in various disciplines related to child abuse and neglect, improving use of volunteers, and establishing resource centers to provide information and training related to child abuse and neglect;</li> <li>• mutual support programs for families;</li> <li>• innovative projects that establish a triage system to respond to child abuse and neglect through partnerships among the state and community agencies;</li> <li>• kinship care projects (see item 19); and</li> <li>• supervised visitation</li> </ul> |                         | <p>grants to states for innovation projects. States could submit applications in FY1998 or FY1999. Projects would last for 5 years, could not require waivers from federal law, would include evaluations, and would address the following goals:</p> <ul style="list-style-type: none"> <li>• reduce backlogs of children awaiting adoption;</li> <li>• ensure permanent placements within 1 year of foster care;</li> <li>• identify and address barriers to permanent placements;</li> <li>• implement community-based permanency initiatives and child protection activities that involve partnerships;</li> <li>• assist with state safety guidelines;</li> <li>• develop new staffing approaches — Section 401.</li> </ul> | <p>through FY2003, rather than provided as entitlement funding — Section 308.</p> |

| Provision                                                  | Current law                                                                                                                                                                                                                                                                                                                                                                                                 | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                             | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                      | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                         |
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|                                                            | <p>facilities for children and parents — Section 105(a) of CAPTA.</p> <p>Under the Adoption Opportunities Program, HHS is authorized to enter into grants and contracts with public and private nonprofit entities for various activities intended to promote adoption, particularly for special needs children — Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.</p> |                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>V. Substance Abuse-Related Provisions</b>               |                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>21. Reports on substance abuse and child protection</b> | No provision.                                                                                                                                                                                                                                                                                                                                                                                               | The Secretary of HHS would be required to submit a report to the Committees on Ways and Means and Finance on the problem of substance abuse in the child welfare population, services provided, and the outcomes of such services. This report would be based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children | The Secretary of HHS would be required to provide to state substance abuse and child welfare agencies an inventory of federal programs that could be used to provide substance abuse services to families in the child welfare system. The Secretary would develop the report through the Administration for Children, Youth and Families, the Center for Substance Abuse Prevention, and the Center for | The Comptroller General would be required to prepare an inventory of federal and state programs that could provide funds for substance abuse prevention and treatment for child welfare agency clients; and examine joint activities conducted by substance abuse and child welfare agencies, and the extent to which such agencies are responding to the needs of drug-exposed infants. The |

| Provision                                                                             | Current law                                                                                                                                                  | H.R. 867 (House-passed)                                                                                                                      | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                             | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                                                       |                                                                                                                                                              | and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation — Section 13. | <p>Substance Abuse Treatment. The report would be due within 12 months of enactment, and would be updated biennially.</p> <p>State substance abuse and child welfare agencies would be required to jointly prepare a report on joint activities, due to HHS within 12 months of enactment. Within 18 months of enactment HHS would report to Congress on substance abuse and child welfare issues, including recommendations for legislation — Section 201.</p> | Comptroller General would be required to report to Congress within 18 months of enactment, describing: substance abuse needs of child welfare clients and the extent to which these needs are being met; barriers to substance abuse treatment faced by child welfare clients; collaborative state substance abuse and child welfare activities; available data on treatment and its effectiveness for child welfare clients; and recommendations for promoting collaboration among state substance abuse and child welfare agencies — Section 306(a). |
| <b>22. Priority for substance abuse treatment</b>                                     | Pregnant women are given priority for substance abuse treatment under a federal substance abuse block grant — Section 1927 of the Public Health Service Act. | No provision.                                                                                                                                | The Public Health Service Act would be amended to provide that all caretaker parents who are referred for substance abuse treatment by a state or local child welfare agency would also be given priority for such services — Section 202.                                                                                                                                                                                                                      | Same as S. 511 — Section 306(b).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>23. Foster care payments for children with parents in residential institutions</b> | Federally subsidized foster care maintenance payments may be made on behalf of eligible children who are                                                     | No provision.                                                                                                                                | Federally subsidized foster care payments could also be made on behalf of eligible children who are placed with                                                                                                                                                                                                                                                                                                                                                 | Same as S. 511, except: <ul style="list-style-type: none"> <li>the provision could also apply to a parent trying to overcome</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                |

| Provision                        | Current law                                                                                     | H.R. 867 (House-passed)                                                                                                                | S. 511 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                   |
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|                                  | placed in a licensed foster family home, or a licensed child care institution — Section 472(b). |                                                                                                                                        | <p>their parent in a residential program that provides services for parents and children, including parenting services, in cases where:</p> <ul style="list-style-type: none"> <li>• the parent is trying to overcome substance abuse, domestic violence, homelessness, or has special needs due to teenage parenthood;</li> <li>• the child's safety can be assured;</li> <li>• the program provides appropriate services for parent and child;</li> <li>• the child's permanency plan is family reunification within a specified period; and</li> <li>• the parent has not previously been treated in a residential program serving children and parents together — Section 203.</li> </ul> | <p>post-partum depression; and</p> <ul style="list-style-type: none"> <li>• the amount of the foster care maintenance payment that would be made to the residential program on behalf of the child could not exceed the amount that would otherwise have been made on behalf of the child — Section 306(c).</li> </ul> |
| <b>VI. Additional Provisions</b> |                                                                                                 |                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                        |
| <b>24. Kinship care report</b>   | No provision.                                                                                   | The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Same as H.R. 867, except, rather than convening a new advisory panel, the Secretary would be directed to use the Advisory Board on Child                                                                                                                                                                               |

| Provision | Current law | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                             | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                               |
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|           |             | <p>Secretary would submit an initial report to the advisory panel on the extent to which foster children are placed with relatives. The advisory panel would review the Secretary's initial report and submit comments by July 1, 1998. Based on these comments and other information, the Secretary would submit a final report, by November 1, 1998, to the Committees on Ways and Means and Finance, containing recommendations — Section 8.</p> |                     | <p>Abuse and Neglect (ABCAN) authorized under CAPTA. If ABCAN did not exist, then the Secretary would convene an advisory panel as directed by this legislation — Section 303.</p> |



| Provision                                              | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | H.R. 867 (House-passed)                                                                                                                                                                                                                       | S. 511 (Introduced) | S. 1195 (Introduced)            |
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| <b>25. Federal parent locator service</b>              | The Federal Parent Locator Service is authorized under the Child Support Enforcement Program to assist in locating absent parents for purposes of collecting child support — Section 453 of the Social Security Act.                                                                                                                                                                                                                                                                              | Child welfare agencies would be authorized to use the Federal Parent Locator Service to assist in locating absent parents — Section 9.                                                                                                        | No provision.       | Same as H.R. 867 — Section 106. |
| <b>26. Eligibility for independent living services</b> | Federal grants for independent living services are authorized to assist: children 16 and older who are eligible for foster care subsidies under Title IV-E; at the option of the state, all other foster children age 16 and older; and at the option of the state, former foster children who are not yet 21 years old. (Eligibility for foster care subsidies under Title IV-E is linked to eligibility for the former AFDC program, which limits asset accumulation to \$1,000) — Section 477. | The primary target population for independent living services would be revised to include children who are no longer eligible for foster care subsidies under Title IV-E, because they have accumulated assets of up to \$5,000 — Section 14. | No provision.       | Same as H.R. 867 — Section 305. |
| <b>76. Standby guardianship</b>                        | No provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | It would be the sense of Congress that states should have laws and procedures that would permit a parent who is chronically ill or near death to designate a standby guardian                                                                 | No provision.       | Same as H.R. 867 — Section 304. |

| Provision                                                                           | Current law   | H.R. 867 (House-passed)                                                                                                                                                                                                  | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                     |               | for their minor 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 — Section 18. |                     |                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>28. Purchase of American-made equipment</b>                                      | No provision. | It would be the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption Promotion Act should be American-made — Section 16.                 | No provision.       | No provision.                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>29. Voluntary reunions between adopted adults and birth parents and siblings</b> | No provision. | No provision.                                                                                                                                                                                                            | No provision.       | The Secretary of HHS, at no cost to the federal government, would be authorized to use the facilities of HHS to facilitate the voluntary, mutually requested reunion of an adult adopted child (age 21 or older), with a birth parent or adult adopted sibling (age 21 or older), if all individuals involved want the reunion and agree to keep each others' names and locations confidential — Section 205. |
| <b>30. Preservation of reasonable parenting</b>                                     | No provision. | No provision.                                                                                                                                                                                                            | No provision.       | Specifies that nothing in this legislation is intended to                                                                                                                                                                                                                                                                                                                                                     |

| Provision                                                        | Current law                                                                                                                                                                                                                                                                             | H.R. 867 (House-passed) | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                  |                                                                                                                                                                                                                                                                                         |                         |                     | disrupt the family unnecessarily or intrude inappropriately into family life, or prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting — Section 401.                                                                                                                                                                                         |
| <b>31. Use of AFCARS data</b>                                    | The Secretary is required to develop, through regulation, a mandatory child welfare data collection system in which all states must participate. HHS is currently implementing this system, known as the Adoption and Foster Care Analysis and Reporting System (AFCARS) — Section 479. | No provision.           | No provision.       | Any information required to be reported by the PASS Act would be supplied through AFCARS, to the extent available. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by the PASS Act — Section 402.                                                                                                                                 |
| <b>32. Report on fiduciary obligations toward SSI recipients</b> | No provision.                                                                                                                                                                                                                                                                           | No provision.           | No provision.       | No later than 12 months after enactment, the Social Security Commissioner would be required to submit a report to Congress on state or local child welfare services agencies that act as representative payees on behalf of children receiving Supplemental Security Income (SSI). This report would examine the extent to which such agencies have complied with their fiduciary responsibilities, and |

| Provision                                                                                | Current law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | H.R. 867 (House-passed) | S. 511 (Introduced) | S. 1195 (Introduced)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                         |                     | have received SSI payments on behalf of children that they cannot identify or locate — Section 403.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>33. Allocation of administrative costs under TANF and other means-tested programs</b> | Under Medicaid and food stamps, states are reimbursed for eligible administrative costs at a 50% federal matching rate, on an open-ended basis. Higher open-ended matching rates are provided for child support enforcement costs. Under TANF, states may use up to 15% of their block grant allotments for administrative costs. (Note: TANF replaced Aid to Families with Dependent Children (AFDC), under which states were reimbursed for eligible administrative costs at a 50% federal matching rate.) | No provision.           | No provision.       | <p>Would require states to designate TANF as the “primary program” when allocating administrative costs incurred in serving those eligible or applying for benefits under TANF and any other state-administered federal means-tested program. This would require that, where TANF individuals also are applicants for or recipients of other federal means-tested programs (e.g., Medicaid, food stamps, child support enforcement), administrative costs would, for the purpose of claiming federal matching money, be allocated such that costs common to all the programs are allocated to TANF and costs specific to a given program are allocated to that program.</p> <p>Includes special provisions for states that conform eligibility rules and procedures under Medicaid and TANF and use the same application form.</p> |

| Provision                   | Current law     | H.R. 867 (House-passed)                                                                                                                                                                                                                                                                                                                                                                                                                                                    | S. 511 (Introduced)            | S. 1195 (Introduced)                                                                                                                                                                              |
|-----------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                | These amendments would take effect as if included in the welfare reform law of 1996 — Section 404.                                                                                                |
| <b>VII. Effective Dates</b> | Not applicable. | <p>October 1, 1997.</p> <p>If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate regular session — Section 15.</p> | October 1, 1997 — Section 501. | Same as H.R. 867, except for provisions dealing with termination of parental rights (see item 3) and allocation of administrative costs under TANF and other means-tested programs (see item 33). |

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**CBO Estimate of H.R. 867**

Based on language received Nov. 12, 1997.

**Adoption and Safe Families Act of 1997**

PRELIMINARY—This estimate has not been reviewed by the Director of CBO.

(millions of dollars)

11/12/97

**Direct spending**

|  | 1998 | 1999 | 2000 | 2001 | 2002 | '98-'02 |
|--|------|------|------|------|------|---------|
|--|------|------|------|------|------|---------|

**Sec. 101**

Clarification of the reasonable efforts requirement

Foster care and adoption assistance

|    |    |    |    |    |    |     |
|----|----|----|----|----|----|-----|
| BA | -2 | -3 | -5 | -5 | -5 | -20 |
| OT | -2 | -3 | -5 | -5 | -5 | -20 |

**Sec. 103**

States required to initiate termination of parental rights for certain children in foster care

Foster care and adoption assistance

|    |   |   |    |    |    |     |
|----|---|---|----|----|----|-----|
| BA | 0 | * | -3 | -5 | -8 | -15 |
| OT | 0 | * | -3 | -5 | -8 | -15 |

**Sec. 305**

Reauthorization and expansion of Family Preservation and Support

Family Preservation and Support

|    |   |    |    |    |    |    |
|----|---|----|----|----|----|----|
| BA | 0 | 12 | 24 | 26 | 18 | 80 |
| OT | 0 | 4  | 14 | 23 | 23 | 65 |

**Sec. 306**

Health Insurance Coverage for Children with Special Needs

Medicaid

|    |   |   |   |   |   |   |
|----|---|---|---|---|---|---|
| BA | 1 | 1 | 1 | 1 | 1 | 5 |
| OT | 1 | 1 | 1 | 1 | 1 | 5 |

**Sec. 307**

Continuation of Eligibility for Adoption Assistance Payments on Behalf of Children with Special Needs Whose Initial Adoption Has Been Disrupted

Foster care and adoption assistance

|    |   |   |   |   |   |   |
|----|---|---|---|---|---|---|
| BA | 0 | 1 | 1 | 2 | 2 | 6 |
| OT | 0 | 1 | 1 | 2 | 2 | 6 |

**Sec. 404**

Temporary Adjustment of Contingency Fund for State Welfare Programs

Contingency fund

|    |    |    |     |     |     |     |
|----|----|----|-----|-----|-----|-----|
| BA | -2 | -9 | -16 | -13 | 0   | -40 |
| OT | 0  | -2 | -9  | -16 | -13 | -40 |

**Total Direct Spending**

|    |    |   |    |    |   |    |
|----|----|---|----|----|---|----|
| BA | -3 | 2 | 2  | 6  | 8 | 14 |
| OT | -1 | 0 | -9 | -9 | 0 | -1 |

**Authorizations of Appropriations with Cap Adjustment****Sec. 201**

Adoption Incentive Payments

|    |   |    |    |    |    |    |
|----|---|----|----|----|----|----|
| BA | 0 | 20 | 20 | 20 | 20 | 80 |
| OT | 0 | 12 | 4  | 8  | 1  | 25 |

**Notes:**

Asterisks denote less than \$500,000.

Components may not add to sums due to rounding.

11/12 5pm

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**Summary of Major Provisions in H.Res. \_\_\_\_\_  
Amending H.R. 867, the Adoption and Safe Families Act of 1997  
November 13, 1997**

**Title I: Reasonable Efforts and Child Safety Provisions**

***Child Health and Safety Paramount.*** In determining and making reasonable efforts on behalf of a child, the legislation specifies that the child's health and safety must be of paramount concern.

***"Reasonable Efforts" to Preserve and Reunify Families.*** States continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement does not apply in cases in which a court has found that:

- ▶ a child has been subjected to "aggravated circumstances" as defined in state law (including, but not necessarily limited to, abandonment, torture, chronic abuse, and sexual abuse);
- ▶ a parent has killed another of their children or has assaulted the child or another of their children; or
- ▶ a parent's rights 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 other placement specified in the plan.

Reasonable efforts to place a child for adoption or with a legal guardian could be made concurrently with reasonable efforts to preserve or reunify the family.

***Documentation of Efforts to Adopt.*** For every child whose permanency plan is adoption or placement in another permanent home, states are required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, a fit and willing relative, a legal guardian, or in another planned living arrangement; and to finalize the adoption or legal guardianship. The documentation must include child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems.

***Termination of Parental Rights.*** In the case of (1) a child who has been in foster care for 15 of the most recent 22 months; (2) a child who the court has determined to be an abandoned infant (as defined in state law); or (3) a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states are required to file a petition (or join any existing petition) to terminate parental rights and, concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

- ▶ at the option of the state, the child is being cared for by a relative;
- ▶ a state agency has documented in the case plan (available for court review) a compelling reason that filing such a petition would not be in the best interests of the child; or
- ▶ the state has not provided to the family of the child consistent with the time period in the case plan such services as the state deems necessary for the safe return of the child (in cases where reasonable efforts to reunify the family have been required).

With regard to children who enter foster care after the date of enactment, states are required to comply with this provision when any such child has been in care for 15 of the most recent 22 months, but no later than three months after the end of the first regular session of the state's legislature that begins after the date of enactment. With regard to children in foster care on the date of enactment, this provision is phased in according to the following schedule: states would be required to comply with this provision for one-third of the children in foster care on the date of enactment by no later than 6 months after the end of the first legislative session, giving priority to children with permanency plans of adoption and children who have been in foster care the longest; states would be required to comply with this provision for two-thirds of the children in foster care on the date of enactment no later than 12 months after the end of the first legislative session; finally, states must be in full compliance for all children in foster care on the date of enactment by no later than 18 months after the end of the first legislative session.

Nothing precludes state courts or state agencies from filing for termination of parental rights earlier than 15 months or for reasons other than those mentioned here.

***Criminal Record Checks.*** States are required to provide procedures for criminal records checks for any prospective foster or adoptive parents, before the parents are finally approved for placement of a child eligible for federal subsidies. In any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide), approval could not be granted. In any case of a felony conviction for physical assault, battery, or a drug-related offense, that was committed in the past 5 years, approval could not be granted. States could opt out of this provision through a written notification from the Governor to the Secretary, or through state law enacted by the legislature.

***Quality Standards for Out-of-home Care.*** States are required to provide, no later than January 1, 1999, that the state will develop and implement standards to ensure that children in foster care placements in public or private agencies receive quality services that protect the safety and health of children.

## **Title II: Adoption Promotion Provisions**

***Adoption Incentive Payments.*** The Secretary of HHS is required to make adoption incentive payments to eligible states. An eligible state is one in which adoptions of foster



children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996.

Adoption incentive payments are \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for a total of \$6,000 per special needs adoption. For these incentive payments, \$20 million is authorized for each of FYs 1999 through 2003, and discretionary budget caps are adjusted to permit this additional spending without using regular appropriation funds. To be eligible to receive adoption incentive payments for FY2001 or FY2002, 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.

*Technical Assistance to Promote Adoption.* HHS is authorized to provide technical assistance to states and localities to promote adoption of foster children. The technical assistance can 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 1 into pre-adoptive placements; and programs to place children into pre-adoptive placements prior to termination of parental rights. \$10 million is authorized for each of fiscal years 1998-2000, with at least half of these funds reserved for providing technical assistance to the courts.

*Eligibility for Adoption Assistance in Cases of Dissolved Adoptions.* Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, continue to be eligible for assistance under Title IV-E in a subsequent adoption. This provision applies only to children whose subsequent adoption occurs on or after October 1, 1997.

*Health Care Coverage for Adopted Children with Special 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 who 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. Such health insurance coverage can be provided through one or more state medical assistance programs (including Medicaid).

*Interjurisdictional 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. In addition, states are not eligible for federal Title IV-E payments if the Secretary finds that, after the date of enactment, a state with responsibility for handling the case has denied or delayed the placement of a child for adoption when an approved family was available outside the jurisdiction, or denied an opportunity for a fair hearing

to an individual whose allegation of a violation of this provision was denied by the state or not acted upon with reasonable promptness. The General Accounting Office is required to study and report to Congress on how to improve procedures and policies to facilitate timely adoptions across state and county lines.

### **Title III: System Accountability and Reform Provisions**

***Permanency Hearings.*** States are required to hold a first dispositional hearing within 12 months of the date the child is considered to have entered foster care, defined as the earlier of the date of the first judicial finding of child abuse or neglect, or 60 days after the child's removal from home. The hearing is renamed a "permanency" hearing, and its purpose is to determine the child's permanency plan, which could include the timetable for: returning home; being placed for adoption and the state would file a petition to terminate parental rights; being referred for legal guardianship; or (in cases in which the state agency has documented a compelling reason why it would not be in the child's best interest to return home, be referred for termination of parental rights, or be placed for adoption, with a fit or willing relative, or with a legal guardian) being placed in another planned, permanent living arrangement.

***Participation in Case Reviews and Hearings.*** Foster and preadoptive parents or relatives providing care for a child are to be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision is not to be construed to require that any foster or preadoptive parent or relative be made a party to such a review or hearing, solely on the basis of receiving notice and an opportunity to be heard.

***Performance Measures for State Child Welfare Programs.*** The Secretary of HHS (in conjunction with Governors, state legislatures, state and local public officials responsible for administering child welfare programs, and child advocates) must develop outcome measures to assess state child welfare programs, and rate state performance according to these measures. HHS must submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report is due on May 1, 1999. Outcome measures include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, are to be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS).

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E, based (to the extent feasible) on the annual reports required by this provision. No later than 6 months after enactment, the Secretary would report to Congress on the feasibility of conducting a study, and would submit a final report on a performance-based incentive system no later than 15 months after enactment.

***Child Welfare Demonstrations.*** The Secretary is authorized to conduct up to 10

demonstration programs in each of FYs 1998 through 2002 that are likely to promote the objectives of the national foster care and adoption programs. The Secretary must consider applications designed to identify and address barriers resulting in delays in adoptive placements for foster children, identify and address parental substance abuse problems that endanger children and result in foster care placements, and address kinship care. In addition, demonstrations could be approved only for those states providing health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between the state and an adoptive parent or parents. The Secretary in approving demonstrations shall take into consideration the effect of the demonstration on any court orders in the state for violations of federal requirements under Title IV-B or IV-E or the U.S. Constitution.

#### **Title IV: Additional Provisions**

*Reauthorization and Renaming of the Family Preservation Program.* The family preservation and family support program (renamed "Promoting Safe and Stable Families") is reauthorized through FY2001 at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. Existing allocation formula provisions, including a 1% reserve for Indian tribes, remain intact. Set-asides for court improvement grants and for evaluation and research are also reauthorized.

States are required to devote significant portions of their expenditures (after spending no more than 10% of their allotment for administrative costs) to each of the following 4 categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services. Time-limited family reunification services are defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than the 15 month period beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities would be counseling, substance abuse treatment, mental health services, assistance to address domestic violence, temporary child care services, and transportation. Adoption promotion and support services would be defined as pre- and post-adoption services and activities designed to expedite the adoption process and support adoptive families.

State plans are required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern.

*Kinship Care Report.* The Secretary of HHS is required to convene an advisory panel on kinship care, and submit an initial report to the advisory panel on the extent to which foster children are placed with relatives, no later than June 1, 1998. The advisory panel will review the Secretary's initial report and submit comments by October 1, 1998. Based on these comments and other information, the Secretary will submit a final report, by June 1, 1999, to the Committees on Ways and Means and Finance, containing recommendations.

***Federal Parent Locator Service.*** Child welfare agencies are authorized to use the Federal Parent Locator Service to assist in locating absent parents.

***Coordination of Substance Abuse and Child Protection Services.*** The Secretary of HHS is required to submit a report to the Committees on Ways and Means and Finance on the outcomes of substance abuse services. This report must be based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children and Families within HHS. The report, which is due within 1 year of enactment, should include legislative recommendations.

***Eligibility for Independent Living Services.*** The primary target population for independent living services is revised to include children who are no longer eligible for federal foster care subsidies under Title IV-E, because they have accumulated assets of up to \$5,000.

***Standby Guardianship.*** It is the sense of Congress that states should have laws and procedures permitting a parent who is chronically ill or near death to designate a standby guardian for their minor 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.

***Purchase of American-made Equipment.*** It is the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption and Safe Families Act should be American-made.

***Preservation of Reasonable Parenting.*** Specifies that nothing in this legislation is intended to disrupt the family unnecessarily or intrude inappropriately into family life, or prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

***Use of AFCARS Data.*** Any information required to be reported by this legislation would be supplied through AFCARS, to the extent available. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by this legislation.

***Temporary Reduction in Contingency Fund.*** The \$2 billion federal Contingency Fund for State Welfare Programs, created by the 1996 welfare reform law, would be reduced by a total of \$40 million.

***Provisions Not in the Final Legislation.*** Requiring the establishment of state child death review teams, and lowering the federal Medicaid matching rate for state expenditures related to skilled professional medical personnel, are not included in the final legislation.

### **Title V: Effective Date**

The provisions of this legislation are effective on the date of enactment, except for provisions dealing with termination of parental rights, disrupted adoptions, and the definition of nonfederal funds under family preservation. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate regular session.

j/conf/adoption/summary.long

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## **I. "Reasonable Efforts" and Child Safety Provisions**

### **1. "Reasonable Efforts" to Preserve and Reunify Families**

#### ***House Bill***

As a component of their state Title IV-E plan, states would continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement would not apply in cases in which a court has found that:

- a child has been subjected to "aggravated circumstances" as defined in state law (which may include abandonment, torture, chronic abuse, and sexual abuse);
- a parent has assaulted the child or another of their children or has killed another of their children (as defined in the Child Abuse Prevention and Treatment Act); or
- a parent's rights to a sibling have been involuntarily terminated.

States would not be required to make reasonable efforts on behalf of any parent who has been involved in subjecting children to these circumstances.

Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 3). (Section 2 of the House bill)

#### ***Senate Amendment***

As a component of their state Title IV-E plan, states would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent:

- if a court has determined that the parent has killed or assaulted another of their children; or
- if a court has determined that returning the child home would pose a serious risk to the child's health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or a previous involuntary termination of parental rights to a sibling); or
- if the state has specified in legislation cases in which reasonable efforts would not be required because of serious circumstances that endanger a child's health or safety.

Reasonable efforts to place a child for adoption or with a legal guardian or custodian could be made concurrently with reasonable efforts to preserve or reunify families (see item 3).

Nothing in Title IV-E, as amended by this Act, would be construed as precluding state courts from exercising their discretion to protect the health and safety of children in individual cases when such cases do not include aggravated circumstances as defined by state law. (Section 101 of the Senate amendment)

#### ***House-Senate Agreement***

The House-Senate Agreement follows the House bill with minor differences in wording, except the agreement:

- clarifies that the state law definition of "aggravated circumstances" may include, but need not be limited to, abandonment, torture, chronic abuse, and sexual abuse;
- adds a rule of construction specifying that nothing in this legislation would 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 this provision; and
- establishes new definitions, under Title IV-E, of the terms "legal guardianship" and "legal guardian." (Section 101 of the House-Senate Agreement)

## **2. Consideration of Child Health and Safety**

### ***House Bill***

In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern. (Section 2)

### ***Senate Amendment***

Same as House bill. (Section 101) In addition, the Senate amendment amends current law to include references to child safety in provisions dealing with child welfare services, case plans, and case review procedures. (Section 102)

### ***House-Senate Agreement***

The House-Senate Agreement follows the Senate amendment.

## **3. "Reasonable Efforts" to Place Children for Adoption or Other Permanent Arrangement**

### ***House Bill***

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 or are no longer consistent with the child's permanency plan, then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another planned, permanent arrangement. Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, guardianship, or in another planned, permanent arrangement. (Section 2)

### ***Senate Amendment***

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (as determined by a court), then a permanency planning hearing must be held for the child within 30 days of the court determination. In such cases, states are required to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the placement. Reasonable efforts to place a child for adoption or with a legal custodian could be made concurrently with reasonable efforts to preserve or reunify the family. (Section 101)

### ***House-Senate Agreement***

The House-Senate Agreement follows the Senate amendment with minor differences in wording. (Section 101)

## **4. Documentation of Efforts to Adopt**

### ***House Bill***

For every child whose permanency plan is adoption or another permanent placement, states would be required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, legal guardian, or other permanent home (including the custody of a fit and willing relative); and to finalize the adoption or guardianship. The documentation must cover child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems. (Section 7)

### ***Senate Amendment***

Same as House bill, with minor differences in wording. (Section 108)

### ***House-Senate Agreement***

The House-Senate Agreement follows the House bill and Senate amendment. (Section 107)

## **5. Termination of Parental Rights**

### ***House Bill***



In the case of a child who is younger than 10 and has been in foster care for 18 of the most recent 24 months, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, unless:

- at the option of the state, the child is being cared for by a relative;
- a state court or agency has documented a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family with services deemed appropriate by the state (in cases in which reasonable efforts to preserve or reunify the family have been required).

This provision would apply only to children who enter foster care on or after October 1, 1997. (Section 3)

#### *Senate Amendment*

In the case of a child who has been in foster care for 12 of the most recent 18 months, an infant who is determined by the court to have been abandoned (as defined under state law), or a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

- at the option of the state, the child is being cared for by a relative;
- a state agency has documented to the state court a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family of the child with services deemed necessary by the state for the child's safe return home. (Section 104(a))

A child would be considered as having entered foster care on the earlier of the date of the first judicial hearing after the child's removal from home or 30 days after the child's removal from home. (Section 104(b))

Nothing in Title IV-E, as amended by this legislation, would preclude state courts or agencies from initiating termination of parental rights for other reasons, or according to earlier timetables than those specified, if such actions are determined to be in the child's best interests. These special cases include those in which the child has experienced multiple foster care placements. (Section 104(c))

For children in foster care on or before the date of enactment, this provision would apply as though the children first entered care on the date of enactment. The effective date of this bill, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item 28). (Section 104(d))

#### *House-Senate Agreement*

The House-Senate Agreement follows the House bill and Senate amendment with modifications. With regard to cases taken into state custody after the date of enactment of this legislation, states are required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family for groups of children:

- three*
- those who have been in foster care for 15 of the most recent 22 months;
  - those who the court has determined to be abandoned infants (as defined in state law); or
  - those for whom there has been a court determination that their parent has assaulted the child or killed or assaulted another of their children.

There are three exceptions to the requirement for terminating parental rights in these cases:

- at the option of the state, if the child is being cared for by a relative;

- if a state agency has documented in the case plan, which must 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
- if the state has not provided to the family of the child, consistent with the time period in the case plan, such services as the state deems necessary for the safe return of the child (in cases in which reasonable efforts to reunify the family have been required). (Section 103(a))

For purposes of applying the 15 of 22 month rule to new cases, the clock begins on the date of the first judicial finding that the child has been subjected to child abuse or neglect or 60 days after the child's removal from home. (Section 103(b))

With regard to children who enter foster care after the date of enactment, states would be required to comply with this provision when any such child has been in care for 15 of the most recent 22 months, but no later than 3 months after the end of the first regular session of the state's legislature that begins after the date of enactment. With regard to children who are in foster care on the date of enactment, states would be required to apply the 15 of 22 months rule to one-third of the caseload no later than 6 months after the end of the first legislative session, and would give priority to children with permanency plans of adoption and children who have been in foster care for the greatest length of time. States then would be required to apply the 15 of 22 months rule to two-thirds of the caseload no later than 12 months after the end of the first legislative session. Finally, states must apply the 15 of 22 months rule to all children who are in foster care on the date of enactment within 18 months after the end of the first legislative session that begins after the date of enactment. (Section 103(c))

Nothing in Title IV-E, as amended by this legislation, can be construed as precluding state courts or state agencies from initiating the termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests. These exceptions include cases in which the child has experienced multiple foster care placements. (Section 103(d))

## **6. Child Death Review Teams**

### *House Bill*

No provision.

### *Senate Amendment*

To be eligible for payments under Title IV-E, no later than 2 years after enactment states must certify that they have established and are maintaining a state child death review team (and, if necessary, regional and local teams) to investigate child deaths. Such deaths include those in which there has been a prior report of abuse or neglect or there is reason to suspect that the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency. State, regional, or local teams may be existing citizen review panels, as authorized under CAPTA, or existing foster care review boards.

In addition, HHS would be required to establish a federal child death review team, with representatives from other federal agencies, to investigate deaths on federal lands, provide guidance and technical assistance to states and localities upon request, and make recommendations to prevent child deaths. (Section 103)

### *House-Senate Agreement*

The House-Senate Agreement follows the House bill.

## **7. Criminal Record Checks**

### *House Bill*

At state option, states could provide, as a component of their Title IV-E plan, procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally approved for a placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children, or crimes involving violence (including rape, sexual or other assault, or homicide), approval could not be granted. In any case of a criminal conviction for a felony or misdemeanor not involving violence, or the existence of a substantiated report of abuse or neglect, final approval could be granted only after consideration of the nature of the offense, the length of time since it occurred, the individual's life experiences since the offense occurred, and any risk to the child. (Section 17)

#### *Senate Amendment*

States would be required to provide, as a component of their Title IV-E plan, procedures for federal and state criminal records checks for any prospective foster or adoptive parents and other adults living in their home. Background checks also would be required for employees of residential child care institutions. Parents and institutions must have background checks before being approved for placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual or other physical assault, battery, or homicide), approval could not be granted. In addition, if a state finds that a court of competent jurisdiction has determined that a drug-related offense has occurred within the past 5 years, approval could not be granted. (Section 107(a))

This provision would not be construed to supercede any provision of state law regarding criminal records checks and other background checks for prospective foster and adoptive parents and employees of residential child care institutions, unless such provisions prevent the application of the requirements in this amendment. (Section 107(b))

#### *House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment with modifications. States would be required to provide, as a component of their Title IV-E plan, procedures for criminal records checks for any prospective foster or adoptive parents, before the parents are finally approved for placement of a child eligible for federal subsidies under Title IV-E. In any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide), approval could not be granted. In any case of a felony conviction for physical assault, battery, or a drug-related offense, approval could not be granted if the felony was committed within the past 5 years. States could opt out of this provision through a written notification from the Governor to the Secretary, or through state law enacted by the legislature.

### **8. Quality Standards for Out-of-home Care**

#### *House Bill*

No provision.

#### *Senate Amendment*

As a component of their state Title IV-E plan, states would be required to develop and implement standards to ensure that children in foster care placements in public or private agencies receive quality services that protect the safety and health of children. The standards must be developed by January 1, 1999. (Section 308)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment. (Section 308)

**II. Adoption Promotion Provisions****9. Adoption Incentive Payments***House Bill*

The Secretary of Health and Human Services (HHS) would be required to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in a base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the number in the base year, plus an additional \$2,000 for each adoption of a foster child with special needs above the number in the base year (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$15 million would be authorized for each of fiscal years 1999 through 2003. The base year is the previous year with the highest number of adoptions. Relevant budget acts would be amended to require adjustments in discretionary spending limits. (Section 4)

*Senate Amendment*

The Senate amendment is similar to the House bill, except:

- the Secretary would be authorized, rather than required, to make adoption incentive payments;
- to be eligible to receive incentive payments, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents;
- adoption incentive payments would equal \$3,000 for each adoption of a foster child above the base number, and an additional \$3,000 for each adoption of a foster child with special needs (total of \$6,000 for each special needs adoption); and
- the base number of adoptions for determining adoption incentive payments would be the average number of adoptions for the 3 most recent fiscal years. (Section 201)

Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 26).

*House-Senate Agreement*

The House-Senate Agreement follows the House bill and the Senate amendment. The Secretary of HHS would be required to make adoption incentive payments to eligible states. An eligible state is one in which adoptions of foster children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996. To be eligible to receive adoption incentive payments for FY2001 or FY2002, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, and an additional \$2,000 for each adoption of a foster child with special needs (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$20 million would be authorized to be appropriated for each of FYs 1999 through 2003, and discretionary budget caps would be adjusted to accommodate this additional spending. (Section 201)

**10. Technical Assistance to Promote Adoption***House Bill*

HHS would be authorized to provide technical assistance to states and localities to promote adoption for foster children, including:

- 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 who would be at risk of harm if returned home;
- encouraged use of fast tracking for children under age 1 into pre-adoptive placements; and
- programs to place children into pre-adoptive placements prior to termination of parental rights.

For technical assistance, \$10 million would be authorized for each of fiscal years 1998-2000. (Section 12)

*Senate Amendment*

HHS would be required to provide technical assistance, upon request, to help states and localities reach their targets for increased numbers of adoptions. No authorization of appropriations would be included. (Section 201)

*House-Senate Agreement*

The House-Senate Agreement follows the House bill, except HHS would be required to use half of funds appropriated for technical assistance to the courts. (Section 201)

**11. Eligibility for Adoption Assistance in Cases of Dissolved Adoptions**

*House Bill*

No provision.

*Senate Amendment*

Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, would continue to be eligible for federally subsidized adoption assistance under Title IV-E in a subsequent adoption. (Section 307(a)) This provision would only apply to children who become available for adoption due to the dissolution of their previous adoption or the death of their adoptive parents, and whose subsequent adoption occurs on or after October 1, 1997. (Section 307(b))

*House-Senate Agreement*

The House-Senate Agreement follows the Senate bill with minor differences in wording. (Section 307)

**12. Health Care Coverage for Special Needs Adopted Children**

*House Bill*

No provision.

*Senate Amendment*

As a component of their state Title IV-E plans, states would be required to provide health insurance coverage for any child determined to be a child with special needs, for whom there is an adoption assistance agreement between the state and the adoptive parents, and who the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical or rehabilitative care. In addition:

- such health insurance coverage could be provided through one or more state medical assistance program;
- the state would ensure that medical benefits, including mental health benefits, would be of the same type and kind as those provided for children by the state under Medicaid;

- if the state provides such health insurance coverage through a program other than Medicaid, and the state exceeds its funding for services under such program, then any such child would be deemed to be Title IV-E-eligible for purposes of Medicaid; and
- in determining cost-sharing requirements, the state would be required to take into consideration the circumstances of the adoptive parents and the needs of the child.

(Section 306)

#### *House-Senate Agreement*

The House-Senate Agreement generally follows the Senate amendment. The agreement makes clear that the state may choose to comply with this provision by covering the child under Medicaid. (Section 306)

### **13. Interjurisdictional Adoption**

#### *House Bill*

No provision.

#### *Senate Amendment*

As a component of their state Title IV-E plan, states would be required to provide that neither the state nor any other entity in the state that receives federal funds and is involved in adoption would delay or deny the adoptive placement of a child on the basis of the geographic residence of the adoptive parent or child. (Section 202(a))

In addition, the Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of appointment, including recommendations for improvements in interjurisdictional adoptions. The Secretary would forward the report to Congress and, if appropriate, make recommendations for legislation. (Section 202(b))

#### *House-Senate Agreement*

*for adoption*  
The House-Senate Agreement generally follows the Senate amendment. As a component of their Title IV-E state plan, states would be required to assure that the state would develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for waiting children. In addition, states would not be eligible for any Title IV-E payment if the Secretary found that, after the date of enactment, a state had denied or delayed the placement of a child when an approved family was available outside the jurisdiction with responsibility for handling the case of the child, or denied to grant an opportunity for a fair hearing to an individual whose allegation of a violation of this provision was denied by the state or not acted upon with reasonable promptness. (Sections 202(a) and (b)) It is the intention of Congress that the best interests of children remain the critical consideration in adoptive placement decisions. Congress does not intend to interfere with the ability of the Interstate Compact on the Placement of Children to ensure safe and appropriate adoptive placements.

The General Accounting Office (rather than HHS through an advisory panel) would be required to study and report to Congress on interjurisdictional adoption issues. (Section 202(b))

## **III. System Accountability and Improvement Provisions**

### **14. Permanency Hearings**

#### *House Bill*

States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of the current 18, and the name of the proceeding would be changed to

"permanency" hearing. The hearing's purpose would be to determine the child's permanency plan, which could include:

- returning home;
- referral for adoption and termination of parental rights;
- guardianship; or
- another planned, permanent arrangement, which could include the custody of a fit and willing relative. (Section 5)

*Senate Amendment*

States would be required to hold a first dispositional hearing within 12 months of the date the child is considered to have entered foster care, defined as the earlier of the date of the first judicial hearing after the child's removal or 30 days after the removal. The hearing would be renamed "permanency planning" hearing, and its purpose would be to determine the child's permanency plan, which could include:

- returning home;
- being placed for adoption and the state would file a petition to terminate parental rights;
- being referred for legal guardianship; or
- in cases in which the state agency has documented to the state court a compelling reason why it would not be in the child's best interest to return home, being referred for termination of parental rights, being placed for adoption with a qualified relative or a legal guardian, or being placed in another planned, permanent living arrangement. (Section 302)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment, except the name of the proceeding is changed to a "permanency" hearing rather than a "permanency planning" hearing. (Section 302)

**15. Participation in Case Reviews and Hearings**

*House Bill*

Foster parents and relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision, however, must not be construed to make any foster parent a party to such a review or hearing. (Section 6)

*Senate Amendment*

Same as the House bill, except the Senate amendment:

- would also apply to any pre-adoptive parent or any other individual who has provided substitute care for the child; and
- would make explicit that relative caretakers, pre-adoptive parents, and other individuals who have cared for the child, in addition to foster parents, would not be considered parties to reviews or hearings solely on the basis of receiving notice. (Section 105)

*House-Senate Agreement*

The House-Senate Agreement follows the House bill and Senate amendment, with minor modifications. Foster parents and preadoptive parents or relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision must not be construed to make any foster parent, preadoptive parent or relative a party to such a review or hearing solely on the basis of receiving notice. (Section 104)

**16. Performance Measures for State Child Welfare Programs**

*House Bill*

The Secretary of HHS, in conjunction with the American Public Welfare Association, the National Governors' Association, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance; the report would contain recommendations for improving state performance. The first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions. To the maximum extent possible, the report would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 10)

#### *Senate Amendment*

The Secretary of HHS would be required to issue an annual report containing ratings of state performance in protecting children. The first report would be due on May 1, 1999. In developing the performance measures, the Secretary would be required to consult with the American Public Welfare Association, the National Governors' Association, the National Conference of State Legislatures, and child welfare advocates. The measures would track state performance over time in the following categories:

- number of placements for adoption and for foster care, and whether such placements were with a relative or a guardian;
- number of children who "age out" of foster care without having been adopted or placed with a guardian;
- length of stay in foster care;
- length of time between a child's availability for adoption and actual adoption;
- number of deaths and substantiated cases of child abuse or neglect in foster care; and
- specific steps taken by the state to facilitate permanence for children. (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. The report would be due no later than 6 months after enactment. (Section 203(b)) Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS) to the extent the information is available through AFCARS (see item 26).

#### *House-Senate Agreement*

The House-Senate Agreement follows the House bill and the Senate amendment, with modifications. The Secretary of HHS, in conjunction with Governors, state legislatures, state and local public officials responsible for administering child welfare programs, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. No later than 6 months after enactment, the Secretary would submit a progress report on the



feasibility, timetable, and consultation process for conducting a study, with a final report due within 15 months of enactment. The report may include other recommendations for restructuring the program and for making payments to states under Titles IV-B and IV-E. (Section 203(b))

#### **17. Child Welfare Demonstrations**

##### ***House Bill***

The number of child welfare demonstrations would be increased from 10 to 15. At least one of the additional demonstrations would have to address the issue of kinship care. (Section 11)

##### ***Senate Amendment***

The current law limitation on the number of demonstrations that HHS could approve would be eliminated. Demonstrations would have to be designed to achieve one or more of the following goals:

- reducing a backlog of children in long-term foster care or awaiting adoptive placement;
- ensuring an adoptive placement for a child no later than 1 year after the child enters foster care;
- identifying and addressing barriers that result in delays to adoptive placements for children in foster care;
- identifying and addressing parental substance abuse problems that endanger children and result in foster care placement, including placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification;
- overcoming barriers to the adoption of children with special needs resulting from a lack of health insurance coverage for such children; and
- any other goal that the Secretary has already approved on the date of enactment, or, after the date of enactment, specifies by regulation.

In considering applications for waivers from states in which there has been a court order determining a state's failure to comply with provisions of Titles IV-B or IV-E or the Constitution, the Secretary would be required to consider the effect of the waiver on the terms and conditions of the court order. (Section 301(a)) This provision would not be construed to affect the terms and conditions of any demonstrations that had been approved as of the date of enactment. (Section 301(b))

##### ***House-Senate Agreement***

The House-Senate Agreement follows the House bill and the Senate amendment, with modifications. The Secretary would be authorized to conduct demonstrations that the Secretary finds are likely to promote the objectives of Title IV-B or IV-E. The Secretary would be authorized to approve no more than 10 such demonstrations in each of FYs 1998 through 2002. If appropriate applications were submitted, the Secretary would be required to consider applications designed to identify and address barriers that result in delays to adoptive placements for foster children; identify and address parental substance abuse problems that endanger children and result in their placement in foster care, including through placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification; and to address kinship care. In addition, waivers could be approved only for those states which provide health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between a state and an adoptive parent or parents. The Secretary may waive the current law requirement that demonstrations end after 5 years. In approving demonstrations, the Secretary shall consider

the effect of the demonstration on any court orders in the state for violations of federal requirements under Titles IV-B or IV-E or the U.S. Constitution. (Section 301)

#### **IV. Additional Provisions**

##### **18. Reauthorization and Renaming of the Family Preservation Program**

###### *House Bill*

No provision.

###### *Senate Amendment*

The family preservation and family support program under Title IV-B, Subpart 2, would be reauthorized through FY2001, at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. As under current law, these are capped entitlement funding levels. Existing allocation formula provisions, including a 1 percent reserve for Indian tribes, would remain intact. Set-asides for court improvement grants and for evaluation and research would also be reauthorized. (Section 305(a))

States would be required to devote significant portions of their expenditures, after spending no more than 10 percent of their allotment for administrative costs, to each of the following four categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services.

Time-limited family reunification services would be defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than 15 months beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities include counseling, substance abuse treatment, mental health services, assistance to address domestic violence, and transportation. Adoption promotion and support services would be defined as services and activities designed to encourage more adoptions out of the foster care system when adoptions promote the best interests of children.

Subpart 2 of Title IV-B would be renamed "Promoting Adoptive, Safe, and Stable Families." (Section 305(b)) State plans under Subpart 2 would be required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern. Additional references to child safety would be added to the statute. (Section 305(c)) Maintenance of effort provisions in current law would be clarified to define nonfederal funds as meaning state funds, or at the option of the state, state and local funds. This provision would take effect as if included in the Omnibus Budget Reconciliation Act of 1993. (Section 305(d))

###### *House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment, except specific examples of adoption promotion and support services would be deleted and time-limited family reunification services are limited to 15 months from the date the child enters foster care. The program would be renamed "Promoting Safe and Stable Families." (Section 305)

##### **19. Report on Substance Abuse and Child Protection**

###### *House Bill*

The Secretary of HHS would be required to submit a report to the Committees on Ways and Means and Finance on the problem of substance abuse in the child welfare population, services provided to parents who abuse substances, and the outcomes of such services. This report would be based on information from the Substance Abuse and Mental Health Services Administration

and the Administration for Children and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation. (Section 13)

*Senate Amendment*

No provision.

*House-Senate Agreement*

The House-Senate Agreement follows the House bill. (Section 405)

**20. Kinship Care Report**

*House Bill*

The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the Secretary would submit an initial report to the advisory panel on the extent to which foster children are placed with relatives. The advisory panel would review the Secretary's initial report and submit comments by July 1, 1998. Based on these comments and other information, the Secretary would submit a final report, by November 1, 1998, to the Committees on Ways and Means and Finance, containing recommendations. (Section 8)

*Senate Amendment*

Same as the House bill with slight differences in data to be collected. (Section 303)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment, except the dates are changed so that the Secretary would be required to convene the advisory panel and submit an initial report to the advisory panel no later than June 1, 1998. The advisory panel would submit comments to the Secretary no later than October 1, 1998, and the Secretary would report to Congress no later than June 1, 1999. (Section 303)

**21. Federal Parent Locator Service**

*House Bill*

Child welfare agencies would be authorized to use the Federal Parent Locator Service to assist in locating absent parents. (Section 9)

*Senate Amendment*

Same as the House bill with minor differences in wording. (Section 106)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment. (Section 105)

**22. Eligibility for Independent Living Services**

*House Bill*

The primary target population for independent living services would be revised to include children who are no longer eligible for foster care subsidies under Title IV-E because they have accumulated assets of up to \$5,000. (Section 14)

*Senate Amendment*

Same as the House bill. (Section 304)

*House-Senate Agreement*

The House-Senate Agreement follows the House bill and the Senate amendment.

**23. Standby Guardianship**

*House Bill*

It would be the sense of Congress that states should have laws and procedures that would permit a parent who is chronically ill or near death to designate a standby guardian for their minor child without surrendering their own parental rights. The standby guardian's authority

would take effect upon the parent's death, the onset of mental incapacity of the parent, or the physical debilitation and consent of the parent. (Section 18)

*Senate Amendment*

Same as House bill. (Section 403)

*House-Senate Agreement*

The House-Senate Agreement follows the House bill and the Senate amendment.

**24. Purchase of American-made Equipment**

*House Bill*

It would be the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption Promotion Act should be American-made. (Section 16)

*Senate Amendment*

No provision.

*House-Senate Agreement*

The House-Senate Agreement follows the House bill with a change to reflect the name of the bill. (Section 406)

**25. Preservation of Reasonable Parenting**

*House Bill*

No provision.

*Senate Amendment*

Specifies that nothing in this legislation is intended to disrupt the family unnecessarily or intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. (Section 401)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment. (Section 401)

**26. Use of Data from the Adoption and Foster Care Analysis and Reporting System (AFCARS)**

*House Bill*

No provision.

*Senate Amendment*

Any information required to be reported by this legislation would be supplied through AFCARS to the extent such information is available in AFCARS. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by this legislation. (Section 402)

*House-Senate Agreement*

The House-Senate Agreement follows the Senate amendment. (Section 402)

**27. Temporary Reduction in Contingency Fund**

*House Bill*

No provision.

*Senate Amendment*

The federal matching rate under Medicaid for state expenditures related to skilled professional medical personnel would be reduced to 73%. (Section 405)

*House-Senate Agreement*

Neither the House bill nor the Senate amendment was followed. Rather, the \$2 billion federal Contingency Fund for the Temporary Assistance for Needy Families (TANF) program,

created by the 1996 welfare reform law (P.L. 104-193), would be reduced by a total of ~~\$44~~ million in outlays over the period 1998-2002. (Section 404)

## **V. Effective Dates**

### **28. Effective Dates**

#### ***House Bill***

October 1, 1997. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until the first day of the calendar quarter beginning after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate session. (Section 15)

#### ***Senate Amendment***

Same as House bill, except for provisions dealing with termination of parental rights (see item 5), disrupted adoptions (see item 11), and the definition of nonfederal funds under family preservation (see item 18). (Section 501)

#### ***House-Senate Agreement***

The House-Senate Agreement follows the House bill and Senate amendment, with a modification to change October 1, 1997, to the date of enactment. (Section 501)