

November 10, 1997

MEMORANDUM

TO: Elena Kagan
Jennifer Klein

FROM: Nicole Rabner

RE: Adoption and Safe Families Act of 1997

Attached please find the conference report and the bill itself. OMB has both and is reviewing. Mary is going to have a conversation with Ron Haskins tomorrow morning. If we have any edits or issues, we should forward them to her quickly.

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I. "Reasonable Efforts" and Child Safety Provisions

I. "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.

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.

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)

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)

Conference Agreement

The conference agreement follows the House bill (with minor technical differences in wording), except:

- makes explicit that the state law definition of "aggravated circumstances" may include, but need not be limited to, abandonment, torture, chronic abuse, and sexual abuse; and
- 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;
- establishes new definitions, under Title IV-E, of the terms "legal guardianship" and "legal guardian." (Section 101)

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, current law would be amended to include references to child safety in provisions dealing with child welfare services, case plan and case review procedures. (Section 102)

Conference Agreement

The conference 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 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 reasons cited in item 1 (as determined by a court), then it would be required that a permanency planning hearing be held for the child within 30 days of the court determination. In such cases, states would be 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)

Conference Agreement

The conference agreement follows the Senate amendment (with minor technical 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 include 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 technical differences in wording). (Section 108)

Conference Agreement

The conference 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 filing 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 where 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 (1) a child who has been in foster care for 12 of the most recent 18 months; (2) an infant who is determined by the court to have been abandoned (as defined under 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 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 filing 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 on 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 be construed as precluding state courts or agencies from initiating 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, including cases where the child has experienced multiple foster care placements of varying durations. (Section 104(c))

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 apply as though the children first entered care on the date of enactment. The provisions of this bill, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item 29). (Section 104(d))

Conference Agreement

The conference agreement follows the House bill and Senate amendment with modifications as follows.

In the case of:

- a child who has been in foster care for 15 of the most recent 22 months;
- a child who the court has determined to be an abandoned infant (as defined in 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 in the case plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the child; or
- 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). (Section 103(a))

A child would be considered as having entered foster care on the earlier of:

- 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 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 one-third of children who are in foster care on the date of enactment, states would be required to comply with this provision 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. With regard to two-thirds of children who are in foster care on the date of enactment, states would be required to comply with this provision no later than 12 months after the end of the first legislative session, and with regard to all children who are in foster care on the date of enactment, states would be required to comply with this provision no later than 18 months after the end of the first legislative session. (Section 103(c))

Nothing in Title IV-E, as amended by this legislation, would 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, including cases where the child has experienced multiple foster care placements of varying durations. (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 would have to 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, including those

where 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)

Conference Agreement

The conference 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, and employees of residential child care institutions, before the parents or institutions are finally 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))

Conference Agreement

The conference agreement follows the Senate amendment with modifications, as follows.

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, 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), crimes involving violence (including rape, sexual or other physical assault, battery, or homicide), or a drug-related offense, approval could not be granted if a court of competent jurisdiction determined that 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 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 their safety and health of children. (Section 308)

Conference Agreement

The conference 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 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 (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. Relevant budget acts would be amended to require adjustments in discretionary spending limits (Section 4)

Senate Amendment

Same as 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 27).

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, with modifications as follows.

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 FY1998 and subsequent years, in which adoptions of foster children exceed the preceding fiscal year. 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 (thus becoming 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. (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;
- 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 assist states and localities reach their targets for increased numbers of adoptions. No authorization of appropriations would be included. (Section 201)

Conference Agreement

The conference 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 Disrupted 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 disruption 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 disruption 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))

Conference Agreement

The conference agreement follows the Senate bill (with minor technical 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 for 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)

Conference Agreement

The conference agreement follows the Senate amendment, except makes explicit 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 involved. (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 their appointment, including recommendations for improvements. The Secretary would forward the report to Congress, and, if relevant, make recommendations for legislation. (Section 202(b))

Conference Agreement

The conference agreement follows the Senate amendment, with modifications as follows.

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))

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 Planning 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 on 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 where 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, be referred for termination of parental rights, be placed for adoption, with a qualified relative, or with a legal guardian) being placed in another planned, permanent living arrangement. (Section 302)

Conference Agreement

The conference agreement follows the Senate amendment, except the name of the proceeding is changed to a "permanency" 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, except that this provision would not be construed to make any foster parent a party to such a review or hearing. (Section 6)

Senate Amendment

Same as House bill, except:

- 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 and an opportunity to be heard. (Section 105)

Conference Agreement

The conference agreement follows the House bill and Senate amendment, with modifications as follows.

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, except that this provision would not be construed to make any foster parent a party to such a review or hearing, solely on the basis of receiving notice and an opportunity to be heard. (Section 104)

16. Performance Measures for State Child Welfare Programs

House Bill

The Secretary of HHS (in conjunction with the American Public Welfare Association, 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, 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)

Senate Amendment

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

- number of placements for adoption, in foster care, 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;
- 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, based (to the extent feasible) on the annual reports required by this provision. The report would be due no later than 6 months after enactment to the House Ways and Means Committee and Senate Finance Committee. (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 available (see item 27).

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, with modifications as follows.

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, 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 a performance-based incentive system, including the process for developing such a system. The report may include other recommendations for restructuring the program and payments 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 to 15 states. 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 through placement of children and parents together in residential treatment facilities (including residential treatment facilities for post-partum depression) that are specifically designed to serve parents and children together to promote family reunification and that can ensure the health and safety of the children;
- 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 where 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))

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with modifications, as follows.

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 (including residential treatment facilities for post-partum depression) that are specifically designed to serve parents and children together to promote family reunification and that can ensure the health and safety of the children; 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. (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. Existing allocation formula provisions, including a 1% 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% 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 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 the 1-year 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, 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, including certain specified activities.

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))

Conference Agreement

The conference agreement follows the Senate amendment, except specific examples of adoption promotion and support services would be deleted. 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, 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.

Conference Agreement

The conference agreement follows the Senate amendment. (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 House bill (slight differences in data to be collected by advisory panel). (Section 303)

Conference Agreement

The conference 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 House bill (technical differences in wording). (Section 106)

Conference Agreement

The conference 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 House bill. (Section 304)

Conference Agreement

The conference 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, mental incapacity, or physical debilitation and consent. (Section 18)

Senate Amendment

Same as House bill. (Section 403)

Conference Agreement

The conference 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.

Conference Agreement

The conference agreement follows the House bill. (Section 406)

25. Voluntary Reunions Between Adopted Adults and Birth Parents and Siblings

House Bill

No provision.

Senate Amendment

At the discretion of the Secretary and at no net cost to the federal government, the Secretary would be authorized to use the facilities of HHS to facilitate the voluntary, mutually requested exchange of information by an adult adopted individual (age 21 or older), with a birth parent or adult adopted sibling (age 21 or older), if all individuals involved have consented by notarized statement. A National Voluntary Mutual Reunion Registry would have to meet specified requirements. (Section 404)

Conference Agreement

The conference agreement follows the House bill.

26. 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, or prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. (Section 401)

Conference Agreement

The conference agreement follows the Senate amendment. (Section 401)

27. Use of AFCARS Data

House Bill

No provision.

Senate Amendment

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. (Section 402)

Conference Agreement

The conference agreement follows the Senate amendment. (Section 402)

28. 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)

Conference Agreement

V. Effective Dates

29. 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 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)

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)

Conference Agreement

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

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[DISCUSSION DRAFT]105TH CONGRESS
1ST SESSION**H. RES.** _____

IN THE HOUSE OF REPRESENTATIVES

Mr. SHAW submitted the following resolution; which was referred to the
Committee on _____

RESOLUTION

Providing for the consideration of the bill H.R. 867 and
the Senate amendment thereto.

- 1 *Resolved*, That, upon the adoption of this resolution,
- 2 the House shall be considered to have taken from the
- 3 Speaker's table the bill H.R. 867 and an amendment of
- 4 the Senate thereto and to have concurred in the amend-
- 5 ment of the Senate with an amendment as follows: in lieu
- 6 of the matter proposed to be inserted by the Senate, insert
- 7 the following:

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1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

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

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

**TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES
FOR CHILDREN**

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

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

- Sec. 301. Authority to approve more child protection demonstration projects.
Sec. 302. Permanency hearings.
Sec. 303. Kinship care.
Sec. 304. Clarification of eligible population for independent living services.
Sec. 305. Reauthorization and expansion of family preservation and support services.
Sec. 306. Health insurance coverage for children with special needs.
Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been disrupted.
Sec. 308. State standards to ensure quality services for children in foster care.
Sec. 309. Technical assistance.

TITLE IV—MISCELLANEOUS

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

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TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

1 **TITLE I—REASONABLE EFFORTS**
2 **AND SAFETY REQUIREMENTS**
3 **FOR FOSTER CARE AND**
4 **ADOPTION PLACEMENTS**

5 **SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS**
6 **REQUIREMENT.**

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

10 “(15) provides that—

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

16 “(B) except as provided in subparagraph
17 (D), reasonable efforts shall be made to pre-
18 serve and reunify families—

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

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

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1 “(C) if continuation of reasonable efforts
2 of the type described in subparagraph (B) is de-
3 termined to be inconsistent with the perma-
4 nency plan for the child, reasonable efforts shall
5 be made to place the child in a timely manner
6 in accordance with the permanency plan, and to
7 complete whatever steps are necessary to final-
8 ize the permanent placement of the child;

9 “(D) reasonable efforts of the type de-
10 scribed in subparagraph (B) shall not be re-
11 quired to be made with respect to a parent of
12 a child if a court of competent jurisdiction has
13 determined that—

14 “(i) the parent has subjected the child
15 to aggravated circumstances (as defined in
16 State law, which definition may include but
17 need not be limited to abandonment, tor-
18 ture, chronic abuse, and sexual abuse);

19 “(ii) the parent has—

20 “(I) committed murder (which
21 would have been an offense under sec-
22 tion 1111(a) of title 18, United States
23 Code, if the offense had occurred in
24 the special maritime or territorial ju-

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1 jurisdiction of the United States) of an-
2 other child of the parent;

3 "(II) committed voluntary man-
4 slaughtering (which would have been an
5 offense under section 1112(a) of title
6 18, United States Code, if the offense
7 had occurred in the special maritime
8 or territorial jurisdiction of the United
9 States) of another child of the parent;

10 "(III) aided or abetted, at-
11 tempted, conspired, or solicited to
12 commit such a murder or such a vol-
13 untary manslaughter; or

14 "(IV) committed a felony assault
15 that results in serious bodily injury to
16 the child or another child of the par-
17 ent; or

18 "(iii) the parental rights of the parent
19 to a sibling have been terminated involun-
20 tarily;

21 "(E) if reasonable efforts of the type de-
22 scribed in subparagraph (B) are not made with
23 respect to a child as a result of a determination
24 made by a court of competent jurisdiction in ac-
25 cordance with subparagraph (D)—

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

5 “(ii) reasonable efforts shall be made
6 to place the child in a timely manner in ac-
7 cordance with the permanency plan, and to
8 complete whatever steps are necessary to
9 finalize the permanent placement of the
10 child; and

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

15 (b) DEFINITION OF LEGAL GUARDIANSHIP.—Section
16 475 of such Act (42 U.S.C. 675) is amended by adding
17 at the end the following:

18 “(7) The term ‘legal guardianship’ means a ju-
19 dicially created relationship between child and care-
20 taker which is intended to be permanent and self-
21 sustaining as evidenced by the transfer to the care-
22 taker of the following parental rights with respect to
23 the child: protection, education, care and control of
24 the person, custody of the person, and decisionmak-

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1 ing. The term 'legal guardian' means the caretaker
2 in such a relationship."

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

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

9 "SEC. 478. RULE OF CONSTRUCTION.

10 "Nothing in this part shall be construed as preclud-
11 ing State courts from exercising their discretion to protect
12 the health and safety of children in individual cases, in-
13 cluding cases other than those described in section
14 471(a)(15)(D).".

15 SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE RE-
16 VIEW SYSTEM REQUIREMENTS.

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

19 (1) in section 422(b)(10)(B)—

20 (A) in clause (iii)(I), by inserting "safe
21 and" after "where"; and

22 (B) in clause (iv), by inserting "safely"
23 after "remain"; and

24 (2) in section 475—

25 (A) in paragraph (1)—

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1 (i) in subparagraph (A), by inserting
2 "safety and" after "discussion of the"; and

3 (ii) in subparagraph (B)—

4 (I) by inserting "safe and" after
5 "child receives"; and

6 (II) by inserting "safe" after "re-
7 turn of the child to his own"; and

8 (B) in paragraph (5)—

9 (i) in subparagraph (A), in the matter
10 preceding clause (i), by inserting "a safe
11 setting that is" after "placement in"; and

12 (ii) in subparagraph (B)—

13 (I) by inserting "the safety of the
14 child," after "determine"; and

15 (II) by inserting "and safely
16 maintained in" after "returned to".

17 **SEC. 108. STATES REQUIRED TO INITIATE OR JOIN PRO-**
18 **CEEDINGS TO TERMINATE PARENTAL**
19 **RIGHTS FOR CERTAIN CHILDREN IN FOSTER**
20 **CARE.**

21 (a) **REQUIREMENT FOR PROCEEDINGS.**—Section
22 475(5) of the Social Security Act (42 U.S.C. 675(5)) is
23 amended—

24 (1) by striking "and" at the end of subpara-
25 graph (C);

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1 (2) by striking the period at the end of sub-
2 paragraph (D) and inserting "; and"; and

3 (3) by adding at the end the following:

4 "(E) in the case of a child who has been
5 in foster care under the responsibility of the
6 State for 15 of the most recent 22 months, or,
7 if a court of competent jurisdiction has deter-
8 mined a child to be an abandoned infant (as de-
9 fined under State law), or made a determina-
10 tion that the parent has committed murder of
11 another child of the parent, committed vol-
12 untary manslaughter of another child of the
13 parent, aided or abetted, attempted, conspired,
14 or solicited to commit such a murder or such a
15 voluntary manslaughter, or committed a felony
16 assault that has resulted in serious bodily in-
17 jury to the child or to another child of the par-
18 ent, the State shall file a petition to terminate
19 the parental rights of the child's parents (or, if
20 such a petition has been filed by another party,
21 seek to be joined as a party to the petition),
22 and, concurrently, to identify, recruit, process,
23 and approve a qualified family for an adoption,
24 unless—

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

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

9 “(iii) the State has not provided to
10 the family of the child, consistent with the
11 time period in the State case plan, such
12 services as the State deems necessary for
13 the safe return of the child to the child's
14 home, if reasonable efforts of the type de-
15 scribed in section 471(a)(15)(B)(ii) are re-
16 quired to be made with respect to the
17 child.”.

18 (b) DETERMINATION OF BEGINNING OF FOSTER
19 CARE.—Section 475(5) of the Social Security Act (42
20 U.S.C. 675(5)), as amended by subsection (a), is amend-
21 ed—

22 (1) by striking “and” at the end of subpara-
23 graph (D);

24 (2) by striking the period at the end of sub-
25 paragraph (E) and inserting “; and”; and

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1 (3) by adding at the end the following:

2 “(F) a child shall be considered to have en-
3 tered foster care on the earlier of—

4 “(i) the date of the first judicial find-
5 ing that the child has been subjected to
6 child abuse or neglect; or

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

10 (c) TRANSITION RULES.—

11 (1) NEW FOSTER CHILDREN.—In the case of a
12 child who enters foster care (within the meaning of
13 section 475(5)(F) of the Social Security Act) under
14 the responsibility of a State after the date of the en-
15 actment of this Act—

16 (A) if the State plan under part E of title
17 IV of the Social Security Act comes into compli-
18 ance with the amendments made by subsection
19 (a) of this section before the child has been in
20 such foster care for 15 of the most recent 22
21 months, the State shall comply with section
22 475(5)(E) of the Social Security Act with re-
23 spect to the child when the child has been in
24 such foster care for 15 of the most recent 22
25 months; and

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1 (B) if the State plan under such part
2 comes into such compliance after the child has
3 been in such foster care for 15 of the most re-
4 cent 22 months, the State shall comply with
5 such section 475(5)(E) with respect to the child
6 not later than 3 months after the end of the
7 first regular session of the State legislature that
8 begins after such date of enactment.

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

13 (A) not later than 6 months after the end
14 of the first regular session of the State legisla-
15 ture that begins after such date of enactment,
16 comply with section 475(5)(E) of the Social Se-
17 curity Act with respect to not less than 1/3 of
18 such children as the State shall select, giving
19 priority to children for whom the permanency
20 plan (within the meaning of part E of title IV
21 of the Social Security Act) is adoption and chil-
22 dren who have been in foster care for the great-
23 est length of time;

24 (B) not later than 12 months after the end
25 of such first regular session, comply with such

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1 section 475(5)(E) with respect to not less than
2 $\frac{2}{3}$ of such children as the State shall select;
3 and

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

8 (3) TREATMENT OF 2-YEAR LEGISLATIVE SES-
9 SIONS.—For purposes of this subsection, in the case
10 of a State that has a 2-year legislative session, each
11 year of the session is deemed to be a separate regu-
12 lar session of the State legislature.

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

18 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion or in part E of title IV of the Social Security Act
20 (42 U.S.C. 670 et seq.), as amended by this Act, shall
21 be construed as precluding State courts or State agencies
22 from initiating the termination of parental rights for rea-
23 sons other than, or for timelines earlier than, those speci-
24 fied in part E of title IV of such Act, when such actions
25 are determined to be in the best interests of the child,

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1 including cases where the child has experienced multiple
2 foster care placements of varying durations.

3 **SBC. 104. NOTICE OF REVIEWS AND HEARINGS; OPPOR-**
4 **TUNITY TO BE HEARD.**

5 Section 475(5) of the Social Security Act (42 U.S.C.
6 675(5)), as amended by section 108, is amended—

7 (1) by striking "and" at the end of subpara-
8 graph (E);

9 (2) by striking the period at the end of sub-
10 paragraph (F) and inserting "; and"; and

11 (3) by adding at the end the following:

12 "(G) the foster parents (if any) of a child
13 and any preadoptive parent or relative provid-
14 ing care for the child are provided with notice
15 of, and an opportunity to be heard in, any re-
16 view or hearing to be held with respect to the
17 child, except that this subparagraph shall not
18 be construed to require that any foster parent,
19 preadoptive parent, or relative providing care
20 for the child be made a party to such a review
21 or hearing solely on the basis of such notice and
22 opportunity to be heard."

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1 SEC. 106. USE OF THE FEDERAL PARENT LOCATOR SERV.

2 ICE FOR CHILD WELFARE SERVICES.

3 Section 453 of the Social Security Act (42 U.S.C.

4 653) is amended—

5 (1) in subsection (a)(2)—

6 (A) in the matter preceding subparagraph

7 (A), by inserting "or making or enforcing child

8 custody or visitation orders," after "obliga-

9 tions,"; and

10 (B) in subparagraph (A)—

11 (i) by striking "or" at the end of

12 clause (ii);

13 (ii) by striking the comma at the end

14 of clause (iii) and inserting "; or"; and

15 (iii) by inserting after clause (iii) the

16 following:

17 "(iv) who has or may have parental

18 rights with respect to a child,"; and

19 (2) in subsection (c)—

20 (A) by striking the period at the end of

21 paragraph (3) and inserting "; and"; and

22 (B) by adding at the end the following:

23 "(4) a State agency that is administering a pro-

24 gram operated under a State plan under subpart 1

25 of part B, or a State plan approved under subpart

26 2 of part B or under part E."

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1 SEC. 106. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE**2 FOSTER AND ADOPTIVE PARENTS.**

3 Section 471(a) of the Social Security Act (42 U.S.C.
4 671(a)) is amended—

5 (1) by striking "and" at the end of paragraph
6 (18);

7 (2) by striking the period at the end of para-
8 graph (19) and inserting "; and"; and

9 (3) by adding at the end the following:

10 "(20)(A) unless an election provided for in sub-
11 paragraph (B) is made with respect to the State,
12 provides procedures for criminal records checks for
13 any prospective foster or adoptive parent before the
14 foster or adoptive parent may be finally approved for
15 placement of a child on whose behalf foster care
16 maintenance payments or adoption assistance pay-
17 ments are to be made under the State plan under
18 this part, including procedures requiring that, in any
19 case in which a record check reveals a felony convic-
20 tion for child abuse or neglect, for spousal abuse, for
21 a crime against children (including child pornog-
22 raphy), for a crime involving violence, including
23 rape, sexual or other physical assault, battery, or
24 homicide, or for a drug-related offense, if a State
25 finds that a court of competent jurisdiction has de-
26 termined that the felony was committed within the

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1 past 5 years, such final approval shall not be grant-
2 ed; and

3 "(B) subparagraph (A) shall not apply to a
4 State plan if the Governor of the State has notified
5 the Secretary in writing that the State has elected
6 to make subparagraph (A) inapplicable to the State,
7 or if the State legislature, by law, has elected to
8 make subparagraph (A) inapplicable to the State."

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

11 Section 475(1) of the Social Security Act (42 U.S.C.
12 675(1)) is amended—

13 (1) in the last sentence—

14 (A) by striking "the case plan must also
15 include"; and

16 (B) by redesignating such sentence as sub-
17 paragraph (D) and indenting appropriately; and
18 (2) by adding at the end the following:

19 "(E) In the case of a child with respect to
20 whom the permanency plan is adoption or
21 placement in another permanent home, docu-
22 mentation of the steps the agency is taking to
23 find an adoptive family or other permanent liv-
24 ing arrangement for the child, to place the child
25 with an adoptive family, a fit and willing rel-

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1 ative, a legal guardian, or in another planned
2 permanent living arrangement, and to finalize
3 the adoption or legal guardianship. At a mini-
4 mum, such documentation shall include child
5 specific recruitment efforts such as the use of
6 State, regional, and national adoption ex-
7 changes including electronic exchange sys-
8 tems."

9 **TITLE II--INCENTIVES FOR PRO-**
10 **VIDING PERMANENT FAMI-**
11 **LIES FOR CHILDREN**

12 **SEC. 301. ADOPTION INCENTIVE PAYMENTS.**

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

16 **"SEC. 473A. ADOPTION INCENTIVE PAYMENTS.**

17 "(a) GRANT AUTHORITY.—Subject to the availability
18 of such amounts as may be provided in advance in appro-
19 priations Acts for this purpose, the Secretary shall make
20 a grant to each State that is an incentive-eligible State
21 for a fiscal year in an amount equal to the adoption incen-
22 tive payment payable to the State under this section for
23 the fiscal year, which shall be payable in the immediately
24 succeeding fiscal year.

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

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

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

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

11 “(4) in the case of fiscal years 2001 and 2002,
12 the State provides health insurance coverage to any
13 child with special needs (as determined under sec-
14 tion 473(c)) for whom there is in effect an adoption
15 assistance agreement between a State and an adop-
16 tive parent or parents; and

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

19 “(c) DATA REQUIREMENTS.—

20 “(1) IN GENERAL.—A State is in compliance
21 with this subsection for a fiscal year if the State has
22 provided to the Secretary the data described in para-
23 graph (2) for fiscal years 1995 through 1997 (or, if
24 later, the fiscal year that precedes the 1st fiscal year
25 for which the State seeks a grant under this section)

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1 and for each succeeding fiscal year that precedes
2 such 1st year.

3 "(2) DETERMINATION OF NUMBERS OF ADOPT-
4 TIONS.—

5 "(A) DETERMINATIONS BASED ON AFCARS
6 DATA.—Except as provided in subparagraph
7 (B), the Secretary shall determine the numbers
8 of foster child adoptions and of special needs
9 adoptions in a State during each of fiscal years
10 1995 through 2002, for purposes of this sec-
11 tion, on the basis of data meeting the require-
12 ments of the system established pursuant to
13 section 479, as reported by the State and ap-
14 proved by the Secretary by August 1 of the suc-
15 ceeding fiscal year.

16 "(B) ALTERNATIVE DATA SOURCES PER-
17 MITTED FOR FISCAL YEARS 1995 THROUGH
18 1997.—For purposes of the determination de-
19 scribed in subparagraph (A) for fiscal years
20 1995 through 1997, the Secretary may use data
21 from a source or sources other than that speci-
22 fied in subparagraph (A) that the Secretary
23 finds to be of equivalent completeness and reli-
24 ability, as reported by a State by November 30,

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1 1997, and approved by the Secretary by March
2 1, 1998.

3 "(3) NO WAIVER OF AFCARS REQUIREMENTS.—

4 This section shall not be construed to alter or affect
5 any requirement of section 479 or of any regulation
6 prescribed under such section with respect to report-
7 ing of data by States, or to waive any penalty for
8 failure to comply with such a requirement.

9 "(d) ADOPTION INCENTIVE PAYMENT.—

10 "(1) IN GENERAL.—Except as provided in para-
11 graph (2), the adoption incentive payment payable to
12 a State for a fiscal year under this section shall be
13 equal to the sum of—

14 "(A) \$4,000, multiplied by the amount (if
15 any) by which the number of foster child adop-
16 tions in the State during the fiscal year exceeds
17 the base number of foster child adoptions for
18 the State for the fiscal year; and

19 "(B) \$2,000, multiplied by the amount (if
20 any) by which the number of special needs
21 adoptions in the State during the fiscal year ex-
22 ceeds the base number of special needs adop-
23 tions for the State for the fiscal year.

24 "(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
25 FUNDS AVAILABLE.—For any fiscal year, if the total

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1 amount of adoption incentive payments otherwise
2 payable under this section for a fiscal year exceeds
3 the amount appropriated pursuant to subsection (h)
4 for the fiscal year, the amount of the adoption incen-
5 tive payment payable to each State under this sec-
6 tion for the fiscal year shall be—

7 “(A) the amount of the adoption incentive
8 payment that would otherwise be payable to the
9 State under this section for the fiscal year; mul-
10 tiplied by

11 “(B) the percentage represented by the
12 amount so appropriated for the fiscal year, di-
13 vided by the total amount of adoption incentive
14 payments otherwise payable under this section
15 for the fiscal year.

16 “(e) 2-YEAR AVAILABILITY OF INCENTIVE PAY-
17 MENTS.—Payments to a State under this section in a fis-
18 cal year shall remain available for use by the State
19 through the end of the succeeding fiscal year.

20 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
21 MENTS.—A State shall not expend an amount paid to the
22 State under this section except to provide to children or
23 families any service (including post-adoption services) that
24 may be provided under part B or E. Amounts expended
25 by a State in accordance with the preceding sentence shall

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1 be disregarded in determining State expenditures for pur-
2 poses of Federal matching payments under section 474.

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

4 "(1) FOSTER CHILD ADOPTION.—The term
5 'foster child adoption' means the final adoption of a
6 child who, at the time of adoptive placement, was in
7 foster care under the supervision of the State.

8 "(2) SPECIAL NEEDS ADOPTION.—The term
9 'special needs adoption' means the final adoption of
10 a child for whom an adoption assistance agreement
11 is in effect under section 473.

12 "(3) BASE NUMBER OF FOSTER CHILD ADOP-
13 TIONS.—The term 'base number of foster child
14 adoptions for a State' means—

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

18 "(B) with respect to any subsequent fiscal
19 year, the number of foster child adoptions in
20 the State in the preceding fiscal year.

21 "(4) BASE NUMBER OF SPECIAL NEEDS ADOP-
22 TIONS.—The term 'base number of special needs
23 adoptions for a State' means—

24 "(A) with respect to fiscal year 1998, the
25 average number of special needs adoptions in

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1 the State in fiscal years 1995, 1996, and 1997;

2 and

3 "(B) with respect to any subsequent fiscal
4 year, the number of special needs adoptions in
5 the State in the preceding fiscal year.

6 "(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
7 PRIATIONS.—

8 "(1) IN GENERAL.—For grants under this sec-
9 tion, there are authorized to be appropriated to the
10 Secretary \$20,000,000 for each of fiscal years 1999
11 through 2003.

12 "(2) AVAILABILITY.—Amounts appropriated
13 under paragraph (1) are authorized to remain avail-
14 able until expended, but not after fiscal year 2003.

15 "(i) TECHNICAL ASSISTANCE.—

16 "(1) IN GENERAL.—The Secretary may, di-
17 rectly or through grants or contracts, provide tech-
18 nical assistance to assist States and local commu-
19 nities to reach their targets for increased numbers of
20 adoptions and, to the extent that adoption is not
21 possible, alternative permanent placements, for chil-
22 dren in foster care.

23 "(2) DESCRIPTION OF THE CHARACTER OF THE
24 TECHNICAL ASSISTANCE.—The technical assistance
25 provided under paragraph (1) may support the goal

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1 of encouraging more adoptions out of the foster care
2 system, when adoptions promote the best interests of
3 children, and may include the following:

4 "(A) The development of best practice
5 guidelines for expediting termination of paren-
6 tal rights.

7 "(B) Models to encourage the use of con-
8 current planning.

9 "(C) The development of specialized units
10 and expertise in moving children toward adop-
11 tion as a permanency goal.

12 "(D) The development of risk assessment
13 tools to facilitate early identification of the chil-
14 dren who will be at risk of harm if returned
15 home.

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

19 "(F) Development of programs that place
20 children into pre-adoptive families without wait-
21 ing for termination of parental rights.

22 "(3) TARGETING OF TECHNICAL ASSISTANCE
23 TO THE COURTS.—Not less than 50 percent of any
24 amount appropriated pursuant to paragraph (4)

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1 shall be used to provide technical assistance to the
2 courts.

3 “(4) LIMITATIONS ON AUTHORIZATION OF AP-
4 PROPRIATIONS.—To carry out this subsection, there
5 are authorized to be appropriated to the Secretary
6 of Health and Human Services not to exceed
7 \$10,000,000 for each of fiscal years 1998 through
8 2000.”.

9 (b) DISCRETIONARY CAP ADJUSTMENT FOR ADOPT-
10 ION INCENTIVE PAYMENTS.—

11 (1) SECTION 251 AMENDMENT.—Section
12 251(b)(2) of the Balanced Budget and Emergency
13 Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as
14 amended by section 10203(a)(4) of the Balanced
15 Budget Act of 1997, is amended by adding at the
16 end the following new subparagraph:

17 “(G) ADOPTION INCENTIVE PAYMENTS.—
18 Whenever a bill or joint resolution making ap-
19 propriations for fiscal year 1999, 2000, 2001,
20 2002, or 2003 is enacted that specifies an
21 amount for adoption incentive payments for the
22 Department of Health and Human Services—

23 “(i) the adjustments for new budget
24 authority shall be the amounts of new
25 budget authority provided in that measure

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1 for adoption incentive payments, but not to
2 exceed \$20,000,000; and

3 "(ii) the adjustment for outlays shall
4 be the additional outlays flowing from such
5 amount."

6 (2) SECTION 314 AMENDMENT.—Section 314(b)
7 of the Congressional Budget Act of 1974, as amend-
8 ed by section 10114(a) of the Balanced Budget Act
9 of 1997, is amended—

10 (A) by striking "or" at the end of para-
11 graph (4);

12 (B) by striking the period at the end of
13 paragraph (5) and inserting "; or"; and

14 (C) by adding at the end the following:

15 "(6) in the case of an amount for adoption in-
16 centive payments (as defined in section 251(b)(2)(G)
17 of the Balanced Budget and Emergency Deficit Con-
18 trol Act of 1985) for fiscal year 1999, 2000, 2001,
19 2002, or 2003 for the Department of Health and
20 Human Services, an amount not to exceed
21 \$20,000,000."

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1 SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURIS-**2 DITIONS.**

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

6 (1) in paragraph (19), by striking "and" at the
7 end;

8 (2) in paragraph (20), by striking the period
9 and inserting "; and"; and

10 (8) by adding at the end the following:

11 "(21) contains assurances that the State shall
12 develop plans for the effective use of cross-jurisdic-
13 tional resources to facilitate timely permanent place-
14 ments for waiting children."

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

18 "(e) Notwithstanding subsection (a), a State shall not
19 be eligible for any payment under this section if the Sec-
20 retary finds that, after the date of the enactment of this
21 subsection, the State has—

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

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

7 (c) STUDY OF INTERJURISDICTIONAL ADOPTION IS-
8 SUBS.—

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

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

15 (B) examine, at a minimum, interjurisdic-
16 tional adoption issues—

17 (i) concerning the recruitment of pro-
18 spective adoptive families from other
19 States and counties;

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

24 (iii) arising from a review of the com-
25 ity and full faith and credit provided to

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1 adoption decrees and termination of paren-
2 tal rights orders from other States; and
3 (iv) concerning the procedures related
4 to the administration and implementation
5 of the Interstate Compact on the Place-
6 ment of Children.

7 (2) REPORT TO THE CONGRESS.—Not later
8 than 1 year after the date of the enactment of this
9 Act, the Comptroller General shall submit to the ap-
10 propriate committees of the Congress a report that
11 includes—

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

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

19 **SEC. 203. PERFORMANCE OF STATES IN PROTECTING CHIL-**
20 **DREN.**

21 (a) ANNUAL REPORT ON STATE PERFORMANCE.—
22 Part E of title IV of the Social Security Act (42 U.S.C.
23 670 et seq.) is amended by adding at the end the follow-
24 ing:

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1 SEC. 479A. ANNUAL REPORT.

2 "The Secretary, in consultation with Governors,
3 State legislatures, State and local public officials respon-
4 sible for administering child welfare programs, and child
5 welfare advocates, shall—

6 "(1) develop a set of outcome measures (includ-
7 ing length of stay in foster care, number of foster
8 care placements, and number of adoptions) that can
9 be used to assess the performance of States in oper-
10 ating child protection and child welfare programs
11 pursuant to parts B and E to ensure the safety of
12 children;

13 "(2) to the maximum extent possible, the out-
14 come measures should be developed from data avail-
15 able from the Adoption and Foster Care Analysis
16 and Reporting System;

17 "(3) develop a system for rating the perform-
18 ance of States with respect to the outcome meas-
19 ures, and provide to the States an explanation of the
20 rating system and how scores are determined under
21 the rating system;

22 "(4) prescribe such regulations as may be nec-
23 essary to ensure that States provide to the Secretary
24 the data necessary to determine State performance
25 with respect to each outcome measure, as a condi-

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1 tion of the State receiving funds under this part;
2 and

3 "(5) on May 1, 1999, and annually thereafter,
4 prepare and submit to the Congress a report on the
5 performance of each State on each outcome meas-
6 ure, which shall examine the reasons for high per-
7 formance and low performance and, where possible,
8 make recommendations as to how State performance
9 could be improved."

10 (b) DEVELOPMENT OF PERFORMANCE-BASED IN-
11 CENTIVE SYSTEM.—The Secretary of Health and Human
12 Services, in consultation with State and local public offi-
13 cials responsible for administering child welfare programs
14 and child welfare advocates, shall develop and recommend
15 to Congress an incentive system to provide payments
16 under parts B and E of title IV of the Social Security
17 Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based
18 on the State's performance under such a system. Such a
19 system shall, to the extent the Secretary determines fea-
20 sible and appropriate, be based on the annual report re-
21 quired by section 479A of the Social Security Act (as
22 added by subsection (a) of this section) or on any proposed
23 modifications of the annual report. Not later than 6
24 months after the date of enactment of this Act, the Sec-
25 retary shall submit to the Committee on Ways and Means

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1 of the House of Representatives and the Committee on
2 Finance of the Senate a report on the feasibility of a per-
3 formance-based incentive system, including the process for
4 developing such a system. The report may include other
5 recommendations for restructuring the program and pay-
6 ments under parts B and E of title IV of the Social Secu-
7 rity Act.

8 **TITLE III—ADDITIONAL**
9 **IMPROVEMENTS AND REFORMS**

10 **SEC. 201. EXPANSION OF CHILD WELFARE DEMONSTRA-**
11 **TION PROJECTS.**

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

15 **“(a) AUTHORITY TO APPROVE DEMONSTRATION**
16 **PROJECTS.—**

17 **“(1) IN GENERAL.—**The Secretary may author-
18 ize States to conduct demonstration projects pursu-
19 ant to this section which the Secretary finds are
20 likely to promote the objectives of part B or E of
21 title IV.

22 **“(2) LIMITATION.—**The Secretary may author-
23 ize not more than 10 demonstration projects under
24 paragraph (1) in each of fiscal years 1998 through
25 2001.

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

3 “(A) If an appropriate application therefor
4 is submitted, the Secretary shall consider au-
5 thorizing a demonstration project which is de-
6 signed to identify and address barriers that re-
7 sult in delays to adoptive placements for chil-
8 dren in foster care.

9 “(B) If an appropriate application therefor
10 is submitted, the Secretary shall consider au-
11 thorizing a demonstration project which is de-
12 signed to identify and address parental sub-
13 stance abuse problems that endanger children
14 and result in the placement of children in foster
15 care, including through the placement of chil-
16 dren with their parents in residential treatment
17 facilities (including residential treatment facili-
18 ties for post-partum depression) that are spe-
19 cifically designed to serve parents and children
20 together in order to promote family reunifica-
21 tion and that can ensure the health and safety
22 of the children in such placements.

23 “(C) If an appropriate application therefor
24 is submitted, the Secretary shall consider au-

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1 thorizing a demonstration project which is de-
2 signed to address kinship care.

3 “(4) LIMITATION ON ELIGIBILITY.—The Sec-
4 retary may not authorize a State to conduct a dem-
5 onstration project under this section if the State
6 fails to provide health insurance coverage to any
7 child with special needs (as determined under sec-
8 tion 473(c)) for whom there is in effect an adoption
9 assistance agreement between a State and an adop-
10 tive parent or parents.”.

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

17 (c) AUTHORITY TO EXTEND DURATION OF DEM-
18 ONSTRATIONS.—Section 1130(d) of such Act (42 U.S.C.
19 1320a-9(d)) is amended by inserting “, unless in the
20 judgement of the Secretary, the demonstration project
21 should be allowed to continue” before the period.

22 SEC. 303. PERMANENCY HEARINGS.

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

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1 (1) by striking "dispositional" and inserting
2 "permanency";

3 (2) by striking "eighteen" and inserting "12";

4 (3) by striking "original placement" and insert-
5 ing "date the child is considered to have entered fos-
6 ter care (as determined under subparagraph (F))";
7 and

8 (4) by striking "future status of" and all that
9 follows through "long term basis)" and inserting
10 "permanency plan for the child that includes wheth-
11 er, and if applicable when, the child will be returned
12 to the parent, placed for adoption and the State will
13 file a petition for termination of parental rights, or
14 referred for legal guardianship, or (in cases where
15 the State agency has documented to the State court
16 a compelling reason for determining that it would
17 not be in the best interests of the child to return
18 home, be referred for termination of parental rights,
19 or be placed for adoption, with a qualified relative,
20 or with a legal guardian) placed in another planned
21 permanent living arrangement".

22 **SBC. 803. KINSHIP CARE.**

23 (a) **REPORT.—**

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

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1 (A) not later than June 1, 1998, convene
2 the advisory panel provided for in subsection
3 (h)(1) and prepare and submit to the advisory
4 panel an initial report on the extent to which
5 children in foster care are placed in the care of
6 a relative (in this section referred to as "kin-
7 ship care"); and

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

14 (i) be based on the comments submit-
15 ted by the advisory panel pursuant to sub-
16 section (b)(2) and other information and
17 considerations; and

18 (ii) include the policy recommenda-
19 tions of the Secretary with respect to the
20 matter.

21 (2) REQUIRED CONTENTS.—Each report re-
22 quired by paragraph (1) shall—

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

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- 1 (i) the policy of the State regarding
- 2 kinship care;
- 3 (ii) the characteristics of the kinship
- 4 care providers (including age, income, eth-
- 5 nicity, and race, and the relationship of the
- 6 kinship care providers to the children);
- 7 (iii) the characteristics of the house-
- 8 hold of such providers (such as number of
- 9 other persons in the household and family
- 10 composition);
- 11 (iv) how much access to the child is
- 12 afforded to the parent from whom the
- 13 child has been removed;
- 14 (v) the cost of, and source of funds
- 15 for, kinship care (including any subsidies
- 16 such as medicaid and cash assistance);
- 17 (vi) the permanency plan for the child
- 18 and the actions being taken by the State to
- 19 achieve the plan;
- 20 (vii) the services being provided to the
- 21 parent from whom the child has been re-
- 22 moved; and
- 23 (viii) the services being provided to
- 24 the kinship care provider; and

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

4 (b) ADVISORY PANEL.—

5 (1) ESTABLISHMENT.—The Secretary of Health
6 and Human Services, in consultation with the Chair-
7 man of the Committee on Ways and Means of the
8 House of Representatives and the Chairman of the
9 Committee on Finance of the Senate, shall convene
10 an advisory panel which shall include parents, foster
11 parents, relative caregivers, former foster children,
12 State and local public officials responsible for admin-
13 istering child welfare programs, private persons in-
14 volved in the delivery of child welfare services, rep-
15 resentatives of tribal governments and tribal courts,
16 judges, and academic experts.

17 (2) DUTIES.—The advisory panel convened pur-
18 suant to paragraph (1) shall review the report pre-
19 pared pursuant to subsection (a), and, not later than
20 October 1, 1998, submit to the Secretary comments
21 on the report.

22 **SEC. 304. CLARIFICATION OF ELIGIBLE POPULATION FOR**
23 **INDEPENDENT LIVING SERVICES.**

24 Section 477(a)(2)(A) of the Social Security Act (42
25 U.S.C. 677(a)(2)(A)) is amended by inserting “(including

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1 children with respect to whom such payments are no
2 longer being made because the child has accumulated as-
3 sets, not to exceed \$5,000, which are otherwise regarded
4 as resources for purposes of determining eligibility for
5 benefits under this part)" before the comma.

6 **SEC. 305. REAUTHORIZATION AND EXPANSION OF FAMILY**
7 **PRESERVATION AND SUPPORT SERVICES.**

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

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

12 (A) in paragraph (4), by striking "or" at
13 the end;

14 (B) in paragraph (5), by striking the pe-
15 riod and inserting a semicolon; and

16 (C) by adding at the end the following:

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

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

19 "(8) for fiscal year 2001, \$305,000,000."

20 (2) **CONTINUATION OF RESERVATION OF CER-**
21 **TAIN AMOUNTS.—**Paragraphs (1) and (2) of section
22 430(d) of the Social Security Act (42 U.S.C. 630(d))
23 are each amended by striking "and 1998" and in-
24 serting "1998, 1999, 2000, and 2001".

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1 (3) CONFORMING AMENDMENTS.—Section
2 13712 of the Omnibus Budget Reconciliation Act of
3 1993 (42 U.S.C. 670 note) is amended—

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

6 (B) in subsection (d)(2), by striking “and
7 1998” and inserting “1998, 1999, 2000, and
8 2001”.

9 (b) EXPANSION FOR ADOPTION PROMOTION AND
10 SUPPORT SERVICES.—

11 (1) ADDITIONS TO STATE PLAN; MINIMUM
12 SPENDING REQUIREMENTS.—Section 432 of the So-
13 cial Security Act (42 U.S.C. 629b) is amended—

14 (A) in subsection (a)—

15 (i) in paragraph (4), by striking “and
16 community-based family support services”
17 and inserting “, community-based family
18 support services, time-limited family reuni-
19 fication services, and adoption promotion
20 and support services,”; and

21 (ii) in paragraph (5)(A), by striking
22 “and community-based family support
23 services” and inserting “, community-based
24 family support services, time-limited family

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1 reunification services, and adoption pro-
2 motion and support services"; and

3 (B) in subsection (b)(1), by striking "and
4 family support" and inserting ", family sup-
5 port, time-limited family reunification services,
6 and adoption promotion and support".

7 (2) DEFINITIONS OF TIME-LIMITED FAMILY RE-
8 UNIFICATION SERVICES AND ADOPTION PROMOTION
9 AND SUPPORT SERVICES.—Section 431(a) of the So-
10 cial Security Act (42 U.S.C. 629a(a)) is amended by
11 adding at the end the following:

12 "(7) TIME-LIMITED FAMILY REUNIFICATION
13 SERVICES.—

14 "(A) IN GENERAL.—The term 'time-lim-
15 ited family reunification services' means the
16 services and activities described in subpara-
17 graph (B) that are provided to a child that is
18 removed from the child's home and placed in a
19 foster family home or a child care institution
20 and to the parents or primary caregiver of such
21 a child, in order to facilitate the reunification of
22 the child safely and appropriately within a time-
23 ly fashion, but only during the 15-month period
24 that begins on the date that the child is re-
25 moved from the child's home.

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1 “(B) SERVICES AND ACTIVITIES DE-
2 SCRIBED.—The services and activities described
3 in this subparagraph are the following:

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

6 “(ii) Inpatient, residential, or out-
7 patient substance abuse treatment services.

8 “(iii) Mental health services.

9 “(iv) Assistance to address domestic
10 violence.

11 “(v) Services designed to provide tem-
12 porary child care and therapeutic services
13 for families, including crisis nurseries.

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

17 “(8) ADOPTION PROMOTION AND SUPPORT
18 SERVICES.—The term ‘adoption promotion and sup-
19 port services’ means services and activities designed
20 to encourage more adoptions out of the foster care
21 system, when adoptions promote the best interests of
22 children, including such activities as pre-and post-
23 adoptive services and activities designed to expedite
24 the adoption process and support adoptive fami-
25 lies.”.

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1 (3) ADDITIONAL CONFORMING AMENDMENTS.—

2 (A) PURPOSES.—Section 430(a) of the So-
3 cial Security Act (42 U.S.C. 629(a)) is amend-
4 ed by striking “and community-based family
5 support services” and inserting “, community-
6 based family support services, time-limited fam-
7 ily reunification services, and adoption pro-
8 motion and support services”.

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

13 **“Subpart 2—Promoting Safe and Stable Families”.**

14 (c) EMPHASIZING THE SAFETY OF THE CHILD.—

15 (1) REQUIRING ASSURANCES THAT THE SAFETY
16 OF CHILDREN SHALL BE OF PARAMOUNT CON-
17 CERN.—Section 432 of the Social Security Act (42
18 U.S.C. 629b), as amended by section 202, is amend-
19 ed—

20 (A) in paragraph (8), by striking “and” at
21 the end;

22 (B) by redesignating paragraph (9) as
23 paragraph (10); and

24 (C) by inserting after paragraph (8), the
25 following:

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1 “(9) contains assurances that in administering
2 and conducting service programs under the plan, the
3 safety of the children to be served shall be of para-
4 mount concern; and”.

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

9 (A) in paragraph (1)—

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

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

15 (B) in paragraph (2)—

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

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

20 (d) CLARIFICATION OF MAINTENANCE OF EFFORT
21 REQUIREMENT.—

22 (1) DEFINITION OF NON-FEDERAL FUNDS.—

23 Section 431(a) of the Social Security Act (42 U.S.C.
24 629a(a)), as amended by subsection (b)(2), is
25 amended by adding at the end the following:

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

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

9 **SEC. 306. HEALTH INSURANCE COVERAGE FOR CHILDREN**
10 **WITH SPECIAL NEEDS.**

11 Section 471(a) of the Social Security Act (42 U.S.C.
12 871(a)), as amended by sections 106 and 202(a), is
13 amended—

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

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

18 (3) by adding at the end the following:

19 “(22) provides for health insurance coverage
20 (including, at State option, through the program
21 under the State plan approved under title XIX) for
22 any child who has been determined to be a child
23 with special needs, for whom there is in effect an
24 adoption assistance agreement (other than an agree-
25 ment under this part) between the State and an

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1 adoptive parent or parents, and who the State has
2 determined cannot be placed with an adoptive parent
3 or parents without medical assistance because such
4 child has special needs for medical, mental health, or
5 rehabilitative care, and that with respect to the pro-
6 vision of such health insurance coverage—

7 “(A) such coverage may be provided
8 through 1 or more State medical assistance pro-
9 grams;

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

15 “(C) in the event that the State provides
16 such coverage through a State medical assist-
17 ance program other than the program under
18 title XIX, and the State exceeds its funding for
19 services under such other program, any such
20 child shall be deemed to be receiving aid or as-
21 sistance under the State plan under this part
22 for purposes of section 1902(a)(10)(A)(i)(I);
23 and

24 “(D) in determining cost-sharing require-
25 ments, the State shall take into consideration

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1 the circumstances of the adopting parent or
2 parents and the needs of the child being adopt-
3 ed."

4 **SEC. 807. CONTINUATION OF ELIGIBILITY FOR ADOPTION**
5 **ASSISTANCE PAYMENTS ON BEHALF OF CHIL-**
6 **DREN WITH SPECIAL NEEDS WHOSE INITIAL**
7 **ADOPTION HAS BEEN DISRUPTED.**

8 (a) CONTINUATION OF ELIGIBILITY.—Section
9 473(a)(2) of the Social Security Act (42 U.S.C. 673(a)(2))
10 is amended by adding at the end the following: "Any child
11 who meets the requirements of subparagraph (C), who was
12 determined eligible for adoption assistance payments
13 under this part in respect of a prior adoption, who is avail-
14 able for adoption because the prior adoption has been dis-
15 solved and the parental rights of the adoptive parents have
16 been terminated or because the child's adoptive parents
17 have died, and who fails to meet the requirements of sub-
18 paragraphs (A) and (B) but would meet such require-
19 ments if the child were treated as if the child were in the
20 same financial and other circumstances the child was in
21 the last time the child was determined eligible for adoption
22 assistance payments under this part and the prior adop-
23 tion were treated as never having occurred, shall be treat-
24 ed as meeting the requirements of this paragraph for pur-
25 poses of paragraph (1)(B)(ii)."

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1 (b) APPLICABILITY.—The amendment made by sub-
2 section (a) shall only apply to children who are adopted
3 on or after October 1, 1997.

4 **SEC. 306. STATE STANDARDS TO ENSURE QUALITY SERV-**
5 **ICES FOR CHILDREN IN FOSTER CARE.**

6 Section 471(a) of the Social Security Act (42 U.S.C.
7 671(a)), as amended by sections 106, 202(a) and 306, is
8 amended—

9 (1) in paragraph (21), by striking “and” at the
10 end;

11 (2) in paragraph (22), by striking the period
12 and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(23) provides that, not later than January 1,
15 1999, the State shall develop and implement stand-
16 ards to ensure that children in foster care place-
17 ments in public or private agencies are provided
18 quality services that protect the safety and health of
19 the children.”.

20 **TITLE IV—MISCELLANEOUS**

21 **SEC. 401. PRESERVATION OF REASONABLE PARENTING.**

22 Nothing in this Act is intended to disrupt the family
23 unnecessarily or to intrude inappropriately into family life,
24 to prohibit the use of reasonable methods of parental dis-
25 cipline, or to prescribe a particular method of parenting.

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1 SEC. 402. REPORTING REQUIREMENTS.

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

**15 SEC. 403. SENSE OF CONGRESS REGARDING STANDBY
16 GUARDIANSHIP.**

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

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

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1 SEC. 404. TEMPORARY ADJUSTMENT.*[Policy not yet finalized.]*

2 (b) **RECOMMENDATIONS FOR IMPROVING THE OPER-**
3 **ATION OF THE CONTINGENCY FUND.**—Not later than
4 March 1, 1998, the Secretary of Health and Human Serv-
5 ices shall make recommendations to the Congress for im-
6 proving the operation of the Contingency Fund for State
7 Welfare Programs.

8 **SEC. 405. COORDINATION OF SUBSTANCE ABUSE AND**
9 **CHILD PROTECTION SERVICES.**

10 Within 1 year after the date of the enactment of this
11 Act, the Secretary of Health and Human Services, based
12 on information from the Substance Abuse and Mental
13 Health Services Administration and the Administration
14 for Children and Families in the Department of Health
15 of Human Services, shall prepare and submit to the Com-
16 mittee on Ways and Means of the House of Representa-
17 tives and the Committee on Finance of the Senate a report
18 which describes the extent and scope of the problem of
19 substance abuse in the child welfare population, the types
20 of services provided to such population, and the outcomes
21 resulting from the provision of such services to such popu-
22 lation. The report shall include recommendations for any
23 legislation that may be needed to improve coordination in
24 providing such services to such population.

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1 **SEC. 408. PURCHASE OF AMERICAN-MADE EQUIPMENT AND**
2 **PRODUCTS.**

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

7 (b) **NOTICE REQUIREMENT.**—In providing financial
8 assistance to, or entering into any contract with, any en-
9 tity using funds made available under this Act, the head
10 of each Federal agency, to the greatest extent practicable,
11 shall provide to such entity a notice describing the state-
12 ment made in subsection (a) by the Congress.

13 **TITLE V—EFFECTIVE DATE**

14 **SEC. 501. EFFECTIVE DATE.**

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

18 (b) **DELAY PERMITTED IF STATE LEGISLATION RE-**
19 **QUIRED.**—In the case of a State plan under part B or
20 E of title IV of the Social Security Act which the Secretary
21 of Health and Human Services determines requires State
22 legislation (other than legislation appropriating funds) in
23 order for the plan to meet the additional requirements im-
24 posed by the amendments made by this Act, the State plan
25 shall not be regarded as failing to comply with the require-
26 ments of such part solely on the basis of the failure of

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1 the plan to meet such additional requirements before the
2 first day of the first calendar quarter beginning after the
3 close of the first regular session of the State legislature
4 that begins after the date of enactment of this Act. For
5 purposes of the previous sentence, in the case of a State
6 that has a 2-year legislative session, each year of such ses-
7 sion shall be deemed to be a separate regular session of
8 the State legislature.