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The Cultural Policy Studies Project

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R-wing but interesting

WHY SERIOUS WELFARE REFORM MUST INCLUDE SERIOUS ADOPTION REFORM

INTRODUCTION

With the national out-of-wedlock birthrate heading toward 40 percent by the year 2000, and 50 percent around the year 2012, lawmakers are concerned about the increase in abused and neglected children which likely will accompany this disturbing trend. There now are close to 500,000 children in the foster care system,[1] but only about 50,000 are cleared for adoption each year. Because of bureaucratic obstacles, many of these children cannot find a permanent, loving home.[2]

The comprehensive House welfare reform bill (H.R. 4, the Personal Responsibility Act) tries to address this problem by rewarding states for reducing their out-of-wedlock birthrate without resorting to abortion. But another way is to increase early adoptions of neglected children. During the congressional debate, some Members balked at trying to reduce the illegitimacy rate, fearing they might appear harsh or uncaring toward the young unwed mother and her child. For these lawmakers and others with similar apprehensions, adoption is a solution that is kind to both mother and child. Its advantage is well documented: a better life.

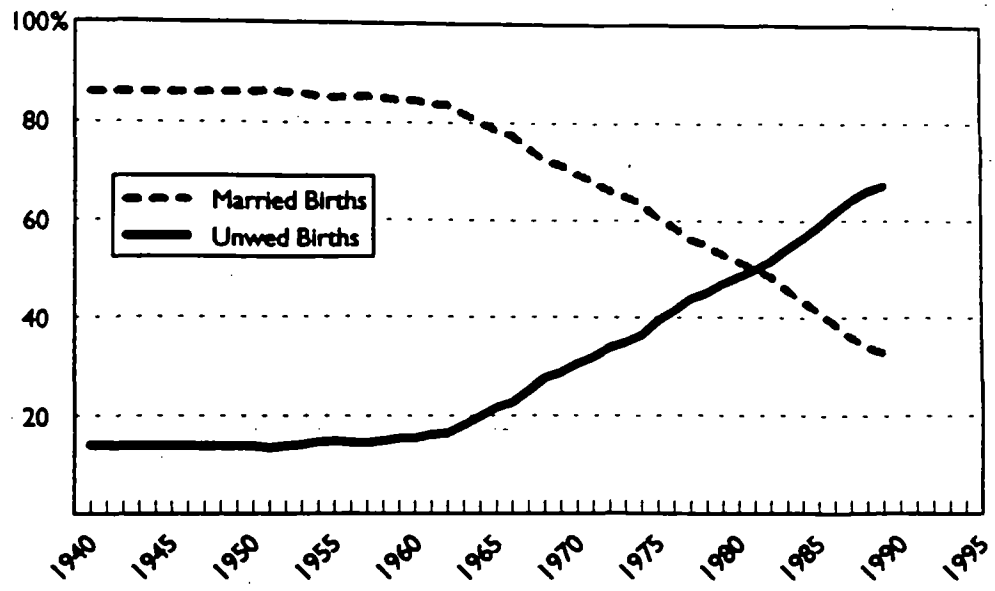
The House-passed tax reform bill (H.R. 1215) also encourages adoption. To help defray the significant costs involved, a couple whose income is below $60,000 receives a $5,000 tax credit. This credit is reduced gradually for couples with incomes between $60,000 and $100,000 and phased out at incomes above $100,000. While significant,

1 In FY 1992, a total of 659,000 children were in or passed through substitute care (foster care and specialized homes for foster children) during the year. The 421,000 children in substitute care at the beginning of the year had grown to 442,000 at the end of the year. From American Public Welfare Association, *Voluntary Cooperative Information System (VCIS) Research Notes* No. 9, August 1993.

2 For an excellent overview of the anti-adoption bias in government agencies, see Conna Craig, "What I Need Is a Mom," *Policy Review*, Summer 1995, pp. 41-49.

Chart 2

Unwed Births Are Increasing for Women Under 20



Source: U.S. Bureau of the Census, *Current Population Survey*, 1991.

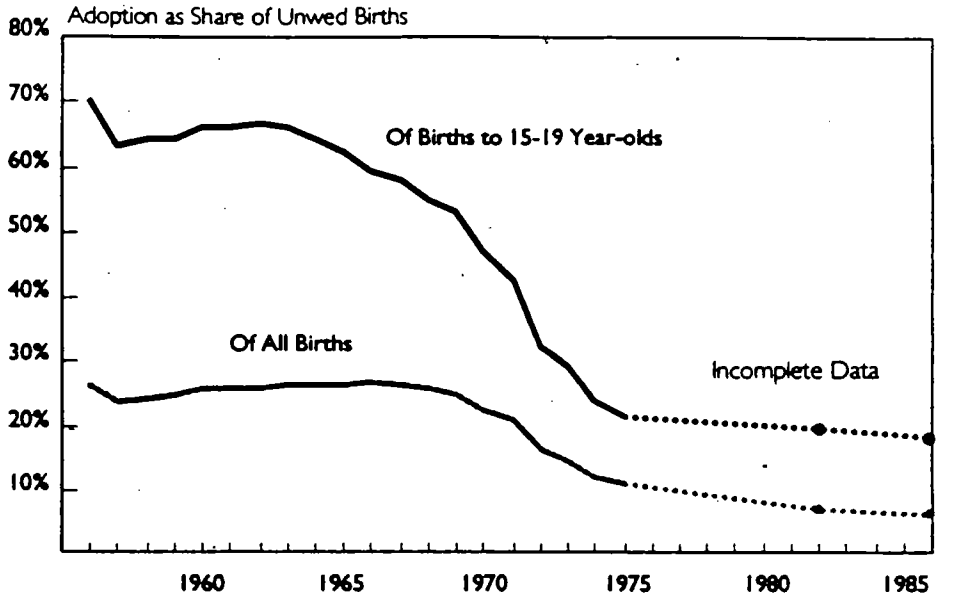
- ✔ **Hold** hearings on the Clinton Administration's blocking of a very effective drug testing and treatment program for cocaine-addicted pregnant mothers. If necessary, pass legislation to reverse the Administration's action.
- ✔ **Issue** annual report cards on the rate of adoption in each state.
- ✔ **Require** federally funded family planning services to provide clear and accurate information on the benefits of adoption to all out-of-wedlock teenage mothers.
- ✔ **Make** it easy for all churches, particularly black churches that serve the poor, to affiliate with adoption agencies and become involved in the adoption process as outreach to prospective adopting parents.
- ✔ **Ensure** the civil rights of all children in foster care and modify the Multi-Ethnic Placement Act to prohibit any use of race or ethnicity to deny or delay the placement of a child for foster care or adoption.
- ✔ **Change** the Indian Child Welfare Act to curtail the reach of Indian Nation law over those who have emigrated from those communities and societies.
- ✔ **Reject** the language in the U.N. Charter on the Rights of the Child.

What the states should do:

- ✔ **Privatize** adoption services.
- ✔ **Change** the way public welfare agencies are financed so that they are obliged to contract for all public adoptions.

Chart 3

Adoptions Are Decreasing: Especially for Women Under 20



Source: *The Adoption Factbook*, National Committee for Adoption, June 1989.

adopted, with formal adoptions dropping by almost 50 percent: from 89,000 in 1970 to a fairly constant 50,000 annually throughout the 1980s and into the 1990s.[3]

The National Council for Adoption estimates that of the 50,000 children adopted annually, 25,000 are healthy children under age two, 10,000 are healthy children over age two, and 15,000 are children with "special needs" (the social work term of art for children considered difficult to place because of their age, physical or mental condition, race or ethnicity, or need to be placed with siblings).[4] About one-third of these adoptions are arranged by government-funded and government-managed public agencies, some by contract with private agencies. Another one-third are arranged by private, mostly nonprofit agencies, and the rest are contracted outside of agency auspices, mostly through lawyers in private practice. International adoptions accounted for an additional 8,000 adoptions during 1994.

Adoption fell out of favor among social workers during the 1970s, even as single parenthood and abortion became more widespread. Advocates of government-sponsored social programs argued that increases in welfare would make it possible for unmarried

3 This number does not include informal adoptions by relatives that frequently take place within families—something extended families have always done for other members in need.

4 However, the term often causes initial resistance or apprehension on the part of potential adopting parents, who may fear having enormous burdens placed upon them. Many experts complain of the unnecessary and inordinate use of the term by state workers, the consequence frequently being the loss of a home for the child.

ents can be located and rehabilitated. A 1993 General Accounting Office report showed that 10,000 infants were being boarded in hospitals for no medical reason. Less than 40 percent of the boarder babies—and none of the abandoned babies—were expected to leave in the care of their parents.

The average total cost of caring for these babies in hospital after their medical treatment is almost $13,000.[17] Nonetheless, only 2.5 percent of the boarder babies and 6 percent of the abandoned infants were expected to go into adoptive placements.[18] The vast majority of these children will spend years in and out of the foster care system while the biological mother attempts to get her life together.[19]

Federal efforts to deal with this have been small and swamped by the size of the problem.[20] When Representative Harris Fawell (R-IL) introduced the At-Birth Abandoned Infants Act (H.R. 2936) last year to help move abandoned babies out of the system and into permanent adoptive homes, the child welfare establishment lobbied against it, arguing that creating a two-tiered system—a fast track for new-born abandoned babies and a slower, less responsive one for older children—was unfair.[21] The bill was not enacted.

WHY ADOPTION SHOULD BE ENCOURAGED

Benefits for Children

Adopted children do as well as or better than their non-adopted counterparts, according to a 1994 study by the Search Institute, a Minneapolis-based public policy research organization specializing in questions of concern to states and cities.[22] This study, the largest examination of adopted adolescents yet undertaken, concludes that:

- ✔ Teens who were adopted at birth are more likely than children born into intact families to live with two parents in a middle-class family.[23]
- ✔ Adopted children score higher than their middle-class counterparts on indicators of school performance, social competency, optimism, and volunteerism.[24]

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multiple serious problems.

17 HHS/ASPE Report, p. ii.

18 "Report to Congress: National Estimates on the Number of Boarder Babies, the Cost of Their Care, and the Number of Abandoned Infants," U.S. General Accounting Office, August 1993; hereinafter cited as GAO Report.

19 Most boarder babies are cases of neglect of a severity which easily would justify termination of the parental rights of the mother. However, "family preservation" guidelines (as opposed to the best interests of the child) lead to prolonged and frequently futile efforts at maternal reform.

20 GAO Report, *op. cit.*

21 The opponents, the Child Welfare League of America and the American Public Welfare Association, also argued that the child's first right is to his biological family, not to care and nurturance, and that family preservation services must first be attempted with the mother—even if she had abandoned her baby.

22 Peter L. Benson, Anu R. Shorma, and Eugene C. Roehlkepartain, *Growing Up Adopted—A Portrait of Adolescents and Their Families* (Minneapolis: Search Institute, June 1994).

23 This finding illustrates the power of early adoption and the need to reform agency practices which keep children in prolonged foster care during their early infancy, when they are highly adoptable.

24 Benson *et al.*, *Growing Up Adopted.*

- ✔ Enjoy a quality of home environment superior to all the other groups;[32]
- ✔ Have superior access to health care compared to all the other groups;[33]
- ✔ Enjoy health similar to that of children of intact families and superior to that of the other two groups; and
- ✔ Do better in educational attainment than single-parent children and children raised by grandparents.[34]

When compared with those adopted later, born outside of marriage and raised by the single mother, or raised in an intact family, children who are adopted in infancy:

- ✔ Repeat grades less often than any other group;
- ✔ See mental health professionals less than all other groups, except children of intact families;
- ✔ Have better health status than all other groups;
- ✔ Have a better standing in their school classes than all other groups, except children raised in intact families; and
- ✔ Have fewer behavior problems than all other groups, except children raised in intact families.

Benefits for Mothers Who Give Up Children for Adoption

Significantly, teenage mothers who choose adoption also do better than mothers who choose to be single parents.

- ✔ They have higher educational aspirations, are more likely to finish school, and less likely to live in poverty and receive public assistance than mothers who keep their children.
- ✔ They delay marriage longer and are more likely to marry eventually.
- ✔ They are more likely to be employed 12 months after the birth and less likely to repeat out-of-wedlock pregnancy.
- ✔ They are no more likely to suffer negative psychological consequences, such as depression, than are mothers who rear children as single parents.[35]

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32 As measured by regular bedtime, use of seatbelts, and absence of an adult smoker in the household.

33 As measured by insurance coverage, dental visits, and regular provider of sick care.

34 As measured by rank in class, repeating a grade, or being suspended.

35 Steven D. McLaughlin, Diane L. Manninen, and Linda D. Winges, "Do Adolescents Who Relinquish Their Children Fare Better or Worse Than Those Who Raise Them?" *Family Planning Perspectives*, Alan Guttmacher Institute, January-February 1988.

spond to the gifts of the family, and a general lack of support to bring couples successfully through the adoption process.[41]

THE BARRIERS TO ADOPTION

Although adoption meets the interests of the needy child better than any other option, Elizabeth Bartholet of Harvard Law School concludes that "our adoption system has failed to live up to even its own limited vision.... Laws and policies that are supposed to protect children have created barriers to adoption that function effectively to prevent these children from getting the kind of protection they most need 'a loving, nurturing and permanent home.'"[42]

The legal system often resolves cases in ways that trouble many Americans. In two widely publicized recent cases, for example, children were wrested from their adoptive parents on the basis of biological ties. Baby Jessica was given to her biological father, who had failed to support two previous children, and Baby Richard was given to his biological father, with whom he had never lived, instead of being allowed to remain with the adoptive family which had nurtured him from birth for three years. In both cases, the overriding "biological ties" of the fathers prevailed over the needs of their children.

Several barriers make it very difficult for many families to adopt children.

BARRIER #1: Anti-Adoption Bias in Pregnancy Counseling

Only 1 percent of women who experience an "unwanted pregnancy" choose adoption for their children.[43] A University of Illinois study explains some of the causes:

- ✘ Some 40 percent of individuals in a variety of settings (health, family planning, social services, and adoption agencies) who identify themselves as "pregnancy counselors" do not even raise the issue of adoption with pregnant clients.
- ✘ An additional 40 percent provide inaccurate or incomplete information to clients.
- ✘ By contrast, 38 percent of the clients whose counselors offered adoption went on to choose adoption.[44]

Congress's efforts to require adoption information and counseling in one federally funded program providing services to pregnant women have met with resistance from family planning professionals. For instance, the Adolescent Family Life Act[45] was

41 Personal communication from Mary Beth Styles, Vice President for Professional Practice, National Council for Adoption, summing up the complaints of parents to NCFA.

42 Elizabeth Bartholet, *Family Bonds: Adoption and the Politics of Parenting* (Boston: Houghton Mifflin, 1993); quoted in Judith D. Vincent, "Reforming Adoption: Putting Children First," Center of the American Experiment, Minneapolis, March 1995, p. 2.

43 National Committee for Adoption, *Unmarried Parents Today*, p. 66.

44 Edmund V. Mech, paper on "Orientations of Pregnancy Counselors Toward Adoption," University of Illinois, 1984.

45 Part of the Omnibus Budget Reconciliation Act, P.L. 97-35, August 13, 1981.

A study by John Schuerman and his colleagues at the University of Chicago found that the "Family First" program did not realize even its central goal: preventing the removal of children.[49] Neither did it protect children from further abuse. There is evidence that some families continue to abuse their children even during the period of intensive state intervention.[50] By contrast, there is strong evidence that children do better when left in foster care than when they are returned to abusive families.[51] This evidence leads to a simple and commonsense conclusion: children need a permanent home to which they can belong. For children at serious risk, an adoptive home is their best chance for real permanence.

Some child advocates challenge the principle of applying the "family preservation" approach in all cases. At a 1994 conference sponsored by the National Council for Adoption at Boys Town, Nebraska, Dr. Richard Gelles of the University of Rhode Island, a pre-eminent child abuse researcher and an early and optimistic supporter of family preservation programs, presented the following paraphrased views on these practices in light of recent evaluation data:

> There are a now a number of studies of children who were returned home only to be abused again or even killed. These studies show dramatically that some abusive parents cannot be rehabilitated.[52] In these cases the appropriate care of such a child is to terminate the parents' rights as quickly as possible and place the child with a permanent caring adoptive family.

The Boys Town conference highlighted the central problem of family preservation services. The first logical step should be to assess whether the child should be removed immediately and whether the parents are likely to benefit from support services. Instead, family preservation services are assumed to be the best first treatment. Though these services are activated because of abuse to the child—sometimes very severe abuse—they must fail before the child can be protected from the abusing family.

The foster care system is the aggregate network of parents who work for state and local social service agencies by taking abandoned, abused, or neglected children into their homes. They receive a set amount each month with which to feed, clothe, and nurture these children. Foster parents try to function as substitute parents. Prudently, they are admonished not to expect that placement will be permanent. However, from among the couples who take on this work come many who would like to adopt, particularly as they get to know these children and their lack of prospects for a happy and safe life in their families of origin.

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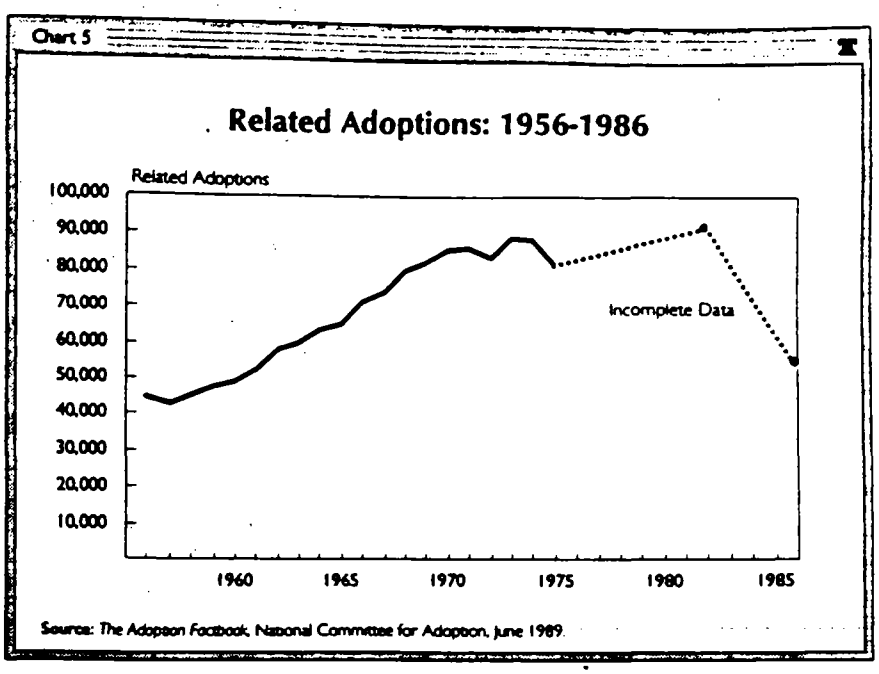
49 John Schuerman, Tina Rzepnicki, and Julia Little, *Putting Families First* (New York: Aldine DeGruyter, 1994).

50 Mary Elizabeth Seader, "Do Services to Preserve the Family Place Children at Unnecessary Risk?" in Eileen Gambrill and Theodore J. Stein, eds., *Controversial Issues in Child Welfare* (New York: Allyn and Bacon, 1994).

51 Carol Statuto Bevan, "In Search of a New Child Welfare Paradigm"; unpublished paper presented at Boys Town conference on Child Protection: Old Problem, New Paradigm, May 20-22, 1994.

52 Richard J. Gelles, "The Doctrine of Family Reunification: Child Protection or Risk?"; paper presented at Boys Town conference on Child Protection: Old Problem, New Paradigm, May 20-22, 1994.

- ✔ Courts could separate those children more decisively and quickly from parents unlikely to reform or benefit from family preservation services.



- ✔ Children in danger of severe abuse would be separated more quickly and expertly from their families and made available for adoption.

- ✔ Social workers involved in helping the more tractable parents would be free to pursue that work with much less likelihood of endangering the child.

- ✔ Local government agencies could turn to the adoption services of nonprofit agencies much more quickly and frequently. Private agencies do not have the immense burden of child protective services and related policing requirements that public agencies have. Their mission is to recruit and prepare adoptive families, and they tend to have great expertise in this work.

BARRIER #4: Unsatisfactory Protection of Confidentiality

State adoption laws generally guarantee the confidentiality of the identity of the mother, the inviolability of the internal intimacy and harmony of the adoptive family, and the peaceful development of the adopted child.

In adoption law and philosophy, there has arisen a view which parallels the modern revisionist view of marriage and parenthood embodied in "no-fault" divorce. New relationships between parent and child are imagined, and a new type of contract is forged between parents. Open adoption is akin to no-fault divorce, and the "birth parents" take on the role of the visiting parent who has not yielded up all his rights to the child, particularly rights of visitation and vacations together. The adoptive parents are bound not just to their adopted child, but also to the birth parents and must facilitate the continuing relationship between the child and his birth parents. This form of open adoption exists in Oregon from birth and in Indiana for children over two years of age.

Open adoption provides no seal of confidentiality regarding the identity of the birth parents, the adopting parents, and the child. It essentially blends birth families with adopting families, directly undermining the creation of a permanent new family for a child. The professional literature shows a frequent confusion of roles when the birth family continues a relationship with the child. This also interferes with parent and child

Adoption and many of its affiliated private adoption agencies have challenged the vagueness of the legislative proposals which do not assure confidentiality. They also have questioned the need to federalize a state issue.

BARRIER #5: Unknown, Uninvolved, or Unmarried Fathers

Another major barrier for unmarried women considering adoption for their children is the need to obtain the consent of uninvolved fathers. Fortunately the Supreme Court, in a series of opinions,[63] has clarified and restricted the rights of uninvolved, unmarried fathers. According to current federal law, these rights correspond to the effort the father has made to establish a relationship with his child. The unmarried father who is unknown, is uninvolved, or has otherwise demonstrated no responsibility or interest in the child may not be entitled to the same consideration as an involved and responsible unmarried father. Federal courts have ruled consistently[64] that ignorance of a pregnancy is no excuse for uninvolvement, because the father was present at conception and could have followed through to assure adequate care for the child.

A growing trend in state legislatures, upheld by the Supreme Court in *Lehr v. Robertson*,[65] is the establishment of father registries which make the father responsible for asserting his parental rights. The registry usually requires the father to file a paternity action within 30 days of the child's birth. This will result in his being notified of a pending adoption. He then will have an opportunity to demonstrate that he has tried to establish a relationship with the child and to take responsibility for the child's care. If he fails to meet any of these requirements, he forfeits his rights to contest the adoption of the child, and the adoption can proceed. While many conservatives think an absent unmarried father should never be an obstacle to adoption, this procedure at least frees the mothers to place children without registered fathers for adoption.

The House welfare bill requires paternity establishment at birth for all fathers. This is a major step in the right direction. Fears that efforts to locate unknown, unmarried fathers will slow down, and possibly stop, adoption are unfounded. If the mother is not seeking AFDC support (and she will not if she is placing her child for adoption), she will not need to identify the father. Simultaneously, the putative father registry protects the due process rights of all fathers. Those who do not register, however, cannot benefit from the protection it would have given them.

BARRIER #6: Race of the Child and Adoptive Parents

Two forms of racial discrimination take place within adoption: against adoptive parents and against children waiting to be adopted. Potential black parents lose the chance to give their love to needy children of their own race. Black children in foster care are deprived of new parents and a stronger foundation in life, in addition to being exposed to the risks of retarded social and intellectual development. Both forms of discrimina-

63 *Stanley v. State of Illinois*, 405 U.S. 645 (1972); *Caban v. Mohammed*, 447 U.S. 380 (1979); and *Lehr v. Robertson*, 463 U.S. 248 (1983).

64 National Council for Adoption, "Putative Fathers' Rights," 1992.

65 *Lehr v. Robertson*, 463 U.S. 248 (1983).

moved. At this point, in addition to having suffered even more, the child is older and more difficult to place.

Given these figures, public welfare agencies are a major source of neglect of young black children. The bias against adopting early, when the child is most adoptable, feeds the foster care system and ensures a larger clientele for public agencies. The present system of financing foster care and not financing adoptions perversely rewards this form of government neglect.

Black Families and Adoption

There is evidence that blacks adopt at a much higher rate than whites if one controls for family structure, income, and age of parents.[70] A 1983 Department of Health and Human Services study[71] put these comparable rates at:

- 7 adoptions per 10,000 black families for all black families;
- 2 adoptions per 10,000 white families for all white families; and
- 2 adoptions per 10,000 Hispanic families for all Hispanic families.

Controlling for age of parents (below 55), family income (above poverty level), and family structure (intact families), the rates change to:

- 18 adoptions per 10,000 black families within the range;
- 4 adoptions per 10,000 white families within the range; and
- 3 adoptions per 10,000 Hispanic families within the range.

These figures convey the reality of much higher adoption rates among blacks than among whites or Hispanics for children in public welfare agencies who are available for adoption.[72]

To meet the needs of all children within their own racial communities by placing them in couple-headed families above poverty, the same study suggests that the response rate among black families would have to be far higher than it is. It would need to approach 44 per 10,000 families for blacks, compared with 6 per 10,000 families for whites and 6 per 10,000 families for Hispanics. This would require an enormous increase in the rates of adoption by blacks and Hispanics. Richard Barth of the School of Social Welfare at the University of California at Berkeley sums up the conclusions to which these data lead:

> The growth of African-American adoptions have increased by 92% in the last 5 years and Hispanic adoptions by 80%. The growth of African American adoptions would have to grow four times faster than that during the next five years in order to give African American children parity of

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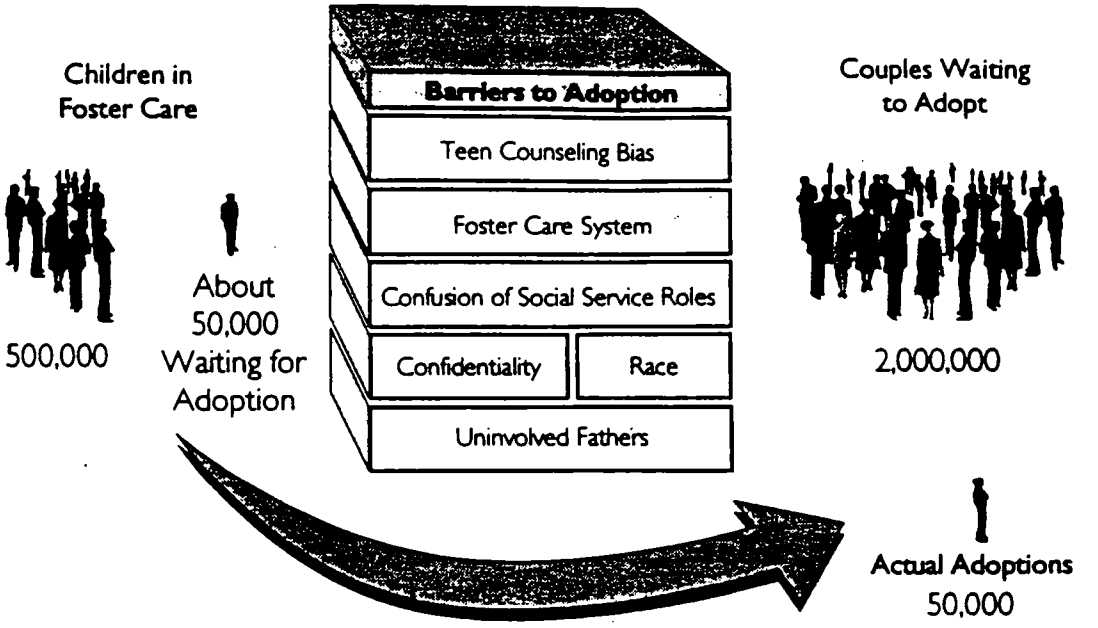
70 There are no ongoing survey data which sample for adoption rates. This makes the estimation of incidence and rates spotty over time and more difficult to estimate accurately.

71 Charles P. Gershenson, "Community Response to Children Free for Adoption," *Child Welfare Research Notes* No. 3, Children's Bureau, Administration for Children, Youth and Families, March 1984.

72 However, if blacks are serving at a rate much higher than their presence in the nation, then the issue of bias against blacks either does not hold up or, at a minimum, is more complex.

Chart 6

Barriers to Adoption: Both Children and Couples Must Wait



Sources: *The Adoption Factbook*, National Committee for Adoption, June 1989; NCFA *Memos*.

tion prevented the adoption of a white child by a black couple who had fostered the child since birth.

In 1984, liberal black columnist Carl T. Rowan argued against the "abominable notion that race must be the dominant factor in deciding who can deliver loving care and protection to a child." Rowan equated the position of black social workers who support only in-race adoption with a 1954 statement by a segregationist Mississippi editor that "every child has the right to be educated among children and by teachers of the same racial background."[79] Furthermore, according to professor Rita Simon, sociologist at the American University and expert in transracial adoption, "The data in our studies and indeed in all the studies that have been done show that transracial adoptions serve the children's best interests."[80]

Still, opposition to transracial adoption is strong. When former Senator Howard Metzenbaum (D-OH) steered S. 1224 through Congress in 1993, he did so to outlaw obstacles similar to the above restrictions that exist in most states. But the Clinton Administration, which supports race matching, succeeded in changing the legislation so that lack

78 Press release, "Institute for Justice Challenges Barriers to Interracial Adoption," April 13, 1995.

79 Carl T. Rowan, "Should Whites Adopt Blacks?" *The Washington Post*, July 13, 1984, p. A19; quoted in Rita J. Simon and Howard Alstein, *Transracial Adoptees and Their Families* (New York: Praeger, 1994), p. 7.

80 Rita Simon, "Serving the Children's Best Interest," *Interrace Magazine*, August/September 1994, pp. 40-42.

Adoption is a national resource that should be encouraged and expanded by government where possible. The federal government should undertake a public relations campaign, targeted to girls under the age of 18 who have conceived out of wedlock, on the benefits of adoption. In addition, Congress should:

1) Enact a means-tested, fully refundable, inflation-adjusted tax credit of up to $5,000 for non-recurring adoption expenses.

The House-passed tax bill (H.R. 1215) provides a non-refundable tax credit of up to $5,000 for adoption costs for those with incomes up to $60,000, gradually phased out for those with incomes between $60,000 and $100,000.

Congress permits a tax deduction for the medical costs of fertility treatment (typically between $35,000 and $50,000 for testing, test tube conception, and deep freeze, development, and discard). The average revenue loss for such treatment is about $8,000. Some corporate health plans, the costs of which are fully excludable from employees' taxable income, also cover fertility treatment. By contrast, the Treasury would gain financially from a one-time $5,000 tax credit that encouraged parents to assume the total cost of caring for foster children—each of whom now costs taxpayers over $13,000 each year.[85]

This tax credit should be fully refundable (including against Social Security taxes) so that poorer parents who adopt a child receive the same level of support as those who earn more and have larger tax liabilities. The object is to encourage and support those who want to adopt. Being less generous with poorer parents (and more black parents are poor compared to white parents) is unwise because it reduces the incentive to adopt.

2) Hold hearings on the Clinton Administration's blocking of an effective drug testing and treatment program for cocaine-addicted pregnant mothers. If necessary, pass legislation to reverse the Administration's action.

The high incidence of serious child abuse among drug-addicted mothers inflicts pain and damage on cocaine-addicted babies. With some 350,000 children affected each year, there is an obvious need for a change in federal law to permit the testing of mothers suspected of cocaine addiction. These babies are at high risk for foster care and for severe damage to their health and development.

South Carolina Attorney General Charles Molony Condon ran a successful program of testing, mandated treatment, or a jail sentence if the mother refused treatment. The result was dramatic: the incidence of cocaine-addicted mothers fell from 24 per month in Charleston to five or six per month.[86] The Clinton Administration, however, called the program punitive and racially discriminatory and threatened to cut off all federal reimbursements to the hospital involved, effectively threatening to

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85 According to the House Ways and Means Committee's *1994 Green Book* on federal entitlement programs and DHHS/ACF data on federal payments to the states for foster care services, the total federal share of foster care payments for 1994 was $1,971,273,000 for 244,473 children, and the average of the federal share of the individual state's foster care bills is 60.88 percent.

86 Charles Molony Condon, "Clinton's Cocaine Babies," *Policy Review*, Spring 1995, pp. 12-15.

6) **Ensure the civil rights of all children in foster care and modify the Multi-Ethnic Placement Act to prohibit clearly the use or consideration of race or ethnicity in denying or delaying the placement of a child for foster care or adoption.**

The fundamental principle behind all civil rights is equality of rights and equal treatment under law. A young child without a family cries out for as quick a placing as possible within a caring family, so that his long-term human potential may not be thwarted at critical early stages of development. The "personness" of that child is infinitely more important than his or her "blackness," "Indianness," "Hispanicness," or "Asianness." In cases where parents of similar ethnic background are unavailable within, say, a 90-day period, then those who are available and willing to adopt should be united with the child, both for the child's benefit and for the good of society.

Those who are anxious to have the children of a community adopted within that community must ensure a sufficient supply of parents wanting to adopt. The onus is on the community and ought not to be placed on the waiting child. To help assure a pool of parents, Congress should work with states to streamline and simplify adoption procedures in minority communities.

Many opportunities for developing a pool of waiting parents are available. The network of minority churches is extensive. By linking with private adoption agencies, these churches can help respond to the needs of minority children awaiting adoption. Many other ethnic organizations can be harnessed to bring the pool of minority adopting parents up to the level needed. The press could carry public service announcements in minority communities. Minority fraternities and sororities also could play an important role. These and similar community efforts would raise public consciousness about adoption.

7) **Change the Indian Child Welfare Act to curtail the reach of Indian Nation law over those who have emigrated from those communities and societies.**

While fully respecting the right of Indian nations to regulate adoptions within their territories, and while fully respecting the rights of all Indian parents giving up their children for adoption to request that the Indian nations take these children for adoption, Congress ought to change civil rights law so that the rights of Indian or part-Indian parents living outside the nations' territories are upheld.

Under current law, a child with as little as one sixty-fourth Indian ancestry may be under the control of that Indian tribe for adoption, no matter where the child lives. While the number may be modest, the principle of "personness" again is paramount. Just as a foreign-born American citizen is not subject to the adoption laws of his country of origin, an Indian who has chosen freely to leave the Indian nation and to marry someone outside it should no longer be subject to its laws.

8) **Reject the language in the U.N. Charter on the Rights of the Child.**

This charter could preclude adoptions for millions of children over time and deny U.S. couples the option of adopting foreign children. The unsigned U.N. Charter on the Rights of the Child may come before Congress in the near future for ratification. In the current draft, international adoption is declared to be a last option, after the home country has exhausted its search.

To encourage adoption, states should:

1) **Privatize adoption services.**

Private adoption services are more efficient and more effective than state agencies where adoption is concerned, as illustrated by the track record of Detroit's Homes for Black Children. They are accountable to a board of directors, while state agencies are not. Private organizations may be sued, which increases their accountability to the children and parents they serve. By contrast, state agencies often cannot be sued. Furthermore, people are more inclined to donate money, time, services, and goods to a private adoption agency than to pay taxes for government agencies.

2) **Change the way public welfare agencies are financed.**

Public welfare agencies dealing with children receive more money to keep children in foster care than they do to clear them for adoption. States should make the allocation of Title IVE monies to these agencies contingent on their record in making final determinations on the future status of children within 12 months of entering foster care. Those not returning to their families must be adopted within three months or handed over to a private agency for adoption.

3) **Establish separate units at the county level to assist the courts in making speedy and appropriate judgments.**

These units should make the initial decision whether to terminate the rights of the parent and bring the process to court or return the child to his family. All babies under 12 months of age coming into the protective custody of a public welfare agency should be processed through the termination unit as a matter of course. A great many such children should be placed for adoption quickly. This in turn would prevent the buildup of a large number of children in foster care — children who grow more and more difficult to place with each passing year, as the significant drop in the percentage of older children who get adopted clearly indicates.

4) **Maintain special Medicaid coverage for all special-needs adopted children.**

This makes it possible for many middle and low-income families to adopt a sick child they would not be able to care for without Medicaid support. It makes sense for government to provide this support, for the special-needs child in foster care will cost the government even more.

5) **Remove obstacles to transracial adoptions.**

While working to increase the pool of minority parents and to enhance the flow of prequalified and ready-to-adopt minority parents, states should continue the practice of transracial adoption when no same-race parents are available. When the child becomes ready for adoption, his need is immediate and acute. Minority community groups can monitor the pool of prescreened, qualified minority parents for all the relevant categories of children: older children, older male children, sibling groups of children, medically needy children.

In addition to the issues involved in ending discrimination against black children waiting to be adopted and against black couples waiting to adopt, there is much else to be done by the states.

10) Enact legislation requiring of public social service agencies the same licensing standards and requirements as those now imposed on private adoption agencies.

Just as Congress has passed a law (H.R. 1 and S. 2) to subject itself to the same regulations it imposes on the rest of the country, all state agencies involved in adoptions ought to be subject to the same reporting and regulatory oversight as adoption agencies are. This reform will likely have the speedy effect of reducing these regulations to the bare minimum needed for the good of the child.

11) Mandate drug testing of pregnant mothers suspected of drug abuse, particularly cocaine abuse.

Because of the high incidence of serious child abuse among drug-addicted mothers, because of the pain and damage done to cocaine-addicted babies, and because this condition now affects 350,000 children a year, states should push for a federal law permitting the drug testing of mothers suspected of cocaine addiction so that hospitals may participate in such programs without being threatened with a cutoff of federal funds as happened in the South Carolina case discussed above.

Children born to drug-addicted mothers are at risk for a host of difficulties and abuses: lower birth weight, physical abuse, and not getting the affectionate nurturing critical for early attachment formation and its concomitant long-range benefits, among them the formation of a solid conscience and the ability to relate well with others. Given these risks to the child, the requirement of drug testing when cocaine or crack cocaine ingestion is suspected is an appropriate protection.

12) Prohibit the removal of a child who is eligible for adoption from foster parents who are willing to adopt the child, except when the child is being returned to the legal parents. Enact legislation to permit foster parents to initiate adoption proceedings.

If the parents are deemed by the agency as suitable for fostering the child, they should qualify automatically as suitable for adopting the child. Today, many foster parents are willing to adopt the children they have fostered once they become available for adoption. However, mainly because of the effective prohibition of transracial adoptions, these parents frequently are denied the chance to adopt the children who have become attached to them. These couples should have the right to adopt the child once the courts have decided he may be adopted. If child welfare agencies have not made this possible within six months of the court decision, foster parents ought to be granted the standing in law to sue the adoption agency and initiate adoption proceedings.

13) Enact laws requiring child welfare agencies to initiate adoption proceedings for any child who has been abandoned by his parents for six months.

This rule should apply for any child in out-of-home care for six months whose parent has not engaged in meaningful interaction with the child during that period. Due process in the courts will protect the rights of parents barred from contact with their children due to very unusual circumstances. However, a child left alone for six months is a child without a dedicated parent.

Jen - FYI.
-Diana

BRIEFING BOOK MEMO

April 30, 1996
8:30 - 9:30 a.m.
Carol Rasco's office

FROM: Diana Fortuna

SUBJECT: HHS Child Welfare Waivers

PARTICIPANTS: HHS: Mary Jo Bane, Olivia Golden, Carol Williams, John Monahan; White House: Ken Apfel and Lester Cash, OMB; Lawton Jordan, Intergovernmental; also invited are Jen Klein and Bruce Reed

PURPOSE: To learn about HHS's review of 13 pending child welfare waivers and its process for awarding the statutory limit of 10 waivers. Attached are HHS's briefing materials.

AGENDA: HHS will walk us through what they have been doing, and we should raise any questions we may have.

BACKGROUND: In 1994, Congress created a new special waiver authority for HHS to allow up to 10 states to conduct cost-neutral demonstrations. After HHS issued guidance to states on this last year, 14 states sent in applications last fall. (Minnesota has since dropped out.) They are Oregon, Delaware, DC, North Carolina, Georgia, Ohio, New York, Indiana, Illinois, California, Michigan, West Virginia, and Maryland. Florida wants to apply even though the deadline has passed.

HHS expects to award Delaware the first waiver within the next few weeks; Illinois and Indiana are fairly far along. HHS is attempting to discourage West Virginia about its application.

The most common thing that states have proposed to do is shift dollars from foster care to family preservation, on the theory that the investment will pay off in terms of foster care dollars saved in the long run. Other ideas include "subsidized guardianship", a new status in between foster care and adoption; managed care (New York and Ohio); block grants (Michigan and California); and tying funding to outcomes (North Carolina).

ISSUES:

HHS is considering approving fewer than 10 of the 13 applications received, because they are not certain that 10 merit approval. The alternative they are considering is to accept 6–8 and then solicit proposals for a second round.

OMB may have a problem with several of the states, which did not propose to use random assignment for evaluation purposes.

QUESTIONS FOR CONSIDERATION:

What policies should HHS test? Are we taking full advantage of this opportunity?

How will HHS handle the requests for block grants?

What is an appropriate way to test managed care? (This has been controversial in New York, where the Mayor has been accused to using managed care to cut reimbursement. HHS appears interested in Ohio's application, however.)

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

April 29, 1996

TO: Carol H. Rasco
Assistant to the President
for Domestic Policy

FROM: Assistant Secretary
for Children and Families

SUBJECT: Child Welfare Waivers -- Briefing

BACKGROUND - CHILD WELFARE WAIVERS

On October 31, 1994, the President signed Public Law 103-432 which, among other things, authorized the Secretary of HHS to permit as many as ten States to conduct child welfare demonstration projects by making most provisions of Parts B and E of title IV of the Social Security Act subject to waiver. These are the sections of the Act which govern foster care, adoption assistance, independent living, child welfare services, and family preservation and support.

Child welfare waivers are required by statute to be cost neutral, to be consistent with the purposes of the basic child welfare legislation, and to have an independent evaluation. Certain protections for children in foster care and their families may not be waived, and eligibility for benefits may not be impaired. The waivers are limited to five years.

The purposes of the waivers include testing State-designed approaches to reforming child welfare services, encouraging innovation, and gaining experience with alternative methods of funding and administering child welfare services. The lessons of these demonstration projects are expected to be beneficial for other States, other social services programs, and national policymakers.

Fourteen States submitted waiver proposals in response to a formal Announcement which appeared in the Federal Register on June 15, 1995. One State has since withdrawn from consideration. The waiver proposals involve a number of themes, among them:

- using title IV-E funds for services and for prevention, rather than for out-of-home care;

- providing subsidies for guardianships for certain children now in long-term foster care;

- encouraging kinship placements;
- adapting managed care techniques to the provision of child welfare services;
- devolving child welfare responsibility and decision-making from the State to a county or local level; and
- developing more community-based services for children and families, and more family-like and community-based placement capacity for children.

The States under consideration are California, Delaware, the District of Columbia, Georgia, Illinois, Indiana, Maryland, Michigan, New York, North Carolina, Ohio, Oregon and West Virginia. One State, Minnesota, dropped out. Summaries of the fourteen proposals were published for public comment in the Federal Register of September 7, 1995.

We have received over 50 comments from the public in response to our publication in the Federal Register of summaries of the State proposals. Commentors included advocates, foster parents, and county officials. The Children's Bureau conducted a series of initial conference calls with all of the States, for a preliminary discussion of the proposals and to gather additional information. Following that, Issue Papers were developed for each State, which outline matters the Department wishes to discuss in more detail. States are invited to set their own timeframes for responding to the Issue Papers, and for scheduling follow-up discussions. The table at Tab A shows the status of Issue Papers and State responses.

It is not yet known whether ten of these thirteen pending proposals will be approved. Sixteen other States have indicated some degree of interest in a child welfare waiver demonstration project.

In California, the Los Angeles County Department of Children's Services has written to the White House expressing strong disagreement with the State's proposal to devolve child welfare responsibility (both programmatic and fiscal) to the counties. California is presently revising its proposal, partly in response to the Department's Issue Paper, which identified the local concerns.

Child welfare waivers will not involve the level of dollars that are involved in AFDC and Medicaid waivers, nor will they, in most cases, affect nearly as many children or families.

THE BROADER CHILD WELFARE REFORM CONTEXT

The child welfare system is experiencing considerable stress, and the need for change is broadly recognized. States need federal support in their efforts to reform the way in which services are designed and delivered. The Department's goal is to create a service delivery approach that is focused on safety, permanency and the well being of children; that is family focused and provides a continuum of services; and that is inclusive in the planning and delivery of services.

In addition to waivers, other key strategies in moving child welfare reform forward are:

- the development of an outcomes focus for child welfare systems;
- reactivating the joint planning process with States through implementation of Family Preservation and Support legislation;
- revising the Department's approach to monitoring, to stress outcomes, self-assessment, federal/State partnership and program improvement;
- development of an adoption strategic plan to increase the focus on permanency;
- working with courts to improve the timeliness and quality of decision making; and
- improving the collection and use of data through support of advanced technology.

DISCUSSION

These waivers provide the Department with the capacity to enter into active partnership with some States to implement and evaluate promising alternatives, and to test new approaches to child welfare practice and administration.

The child welfare waiver proposals raise a number of substantive issues, among them:

- How to assure protection of children and quality of services;
- How to guarantee that children and families are not deprived of services to which they are entitled;
- How to handle the waiver proposals where systems are especially fragile (DC) or challenged (NY);
- How to handle evaluations of statewide projects; and
- How to assure cost neutrality, especially if it is necessary to rely on projections of State entitlements.

The first child welfare waiver proposal which will be ready for approval is Delaware's. Draft Waiver Terms and Conditions are now being reviewed by Delaware officials. Delaware is proposing two separate child welfare demonstration projects: one statewide component to test the use of substance abuse counseling and treatment for parents as a means of reducing or removing the need to place children in foster care; and a limited component (up to 10 children) that would test assisted guardianship for certain children in foster care who cannot be placed for adoption.

Mary Jo Bane

Attachments:
Tab A - Statutory Authority
Tab B - Waiver Announcement - Federal Register, June 15, 1995
Tab C - Summary of Proposals Received - Federal Register, September 7, 1995
Tab D - Status of Child Welfare Waivers - Table

cc: Kevin Thurm

Tab A

HR5252, portion thereof...

SEC. 208. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1128B the following:

''demonstration projects

''Sec. 1129. (a) In General.--The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

''(b) Waiver Authority.--The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive--

''(1) any provision of section 427 (as in effect before April 1, 1996), section 422(b)(9) (as in effect after such date), or section 479; or

''(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

''(c) Treatment as Program Expenditures.--For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

''(d) Duration of Demonstration.--A demonstration project under this section may be conducted for not more than 5 years.

''(e) Application.--Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes--

''(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

''(2) a statement of the period during which the proposed project would be conducted;

''(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

''(4) an estimate of the costs or savings of the proposed project;

''(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

''(6) a description of the proposed evaluation design; and

''(7) such additional information as the Secretary may require.

''(f) Evaluations; Report.--Each State authorized to conduct a demonstration project under this section shall--

''(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for--

''(A) comparison of methods of service delivery under the project, and such methods under a State plan

or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

``(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

``(C) any other information that the Secretary may require; and

``(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

``(g) Cost Neutrality.--The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.''.

Child Welfare Waivers -- STATUS As of: Apr. 12, 1996

	ISSUE PAPERS		DECISION PROCESS			
State	In HHS/ OMB Rev.	Sent to State	State Response	Dis-cussion	Terms & Cond'ns	Approval Package
DE	X	X	in	held 2/28	in State review	being assembled
IL	X	X	in	held 4/12		
NY	X	X				
NC	X	X				
WV	X					
IN	X	X	in	held 3/20	in State review	
CA	X		will reply in Apr.			
OH	X	X	in	held 4/2	being drafted	
MI	X	X	in, in draft			
GA	X					
DC	X					
MD	X	X				
OR	X	X	in	held 3/18	partial draft in ACF review	

Appendix I

This is a list of program ideas that have been suggested by States or others in response to the Department's requests for suggestions. They are listed only as a means of outlining, for States interested in proposing a child welfare waiver demonstration project, the broad range of possible demonstrations that the Department would consider. Whether these sample ideas would be cost-neutral would depend, of course, on how a State proposes to implement them. Similarly, the method of implementation could affect whether a waiver demonstration project would meet the statutory requirement that it not "impair the entitlement of any qualified child or family to benefits under a State" title IV-E Plan.

This list should not be regarded as limiting a State in any way in conceiving demonstration ideas.

- To meet the need for specialized foster care, and to reduce the amount spent on institutional care, train AFDC recipients or other low income persons to be professional, paid foster parents for specialized foster home placements; ensure appropriate licensing and possibly provide housing subsidies or homeownership assistance to assure the stability of the specialized foster home as a long-term resource.
- Broaden the use of title IV-E to fund services for children, their parents, and foster families, and to fund preventive services for families at risk, with the expectation that total time in out-of-home care would be reduced, and in some cases foster placements could be avoided.
- Provide better services at lower cost by, where appropriate, returning children, especially adolescents, from out-of-State institutional placements. Such a demonstration might include both foster care youth and youth who are in the juvenile justice system. The expectation is that placing them in community-based specialized family foster homes, or community-based group homes, will reduce the total time in out-of-home care.
- Provide subsidized guardianship or other arrangements which would allow children to stay or be placed in a familial setting that is more cost-effective than continuing them in foster care.
- For older adolescents in independent living, allow title IV-E funds to be used for the cost of an apartment for a period of time before the youth leaves foster care, and a short period thereafter, to achieve more stable placements for youth.
- Expand the availability of in-home respite care for foster families, with the expectation that administrative costs, including the costs of recruiting foster families, will be controlled, and more stable placements will result in shortened stays in out-of-home care.
- Provide State-funded parental visitation for parents whose children are in institutional care, including the costs of telephone calls, transportation, and other expenses associated with maintaining or improving contact. The expectation is that more contact between parents/families and children in care can shorten stays in institutional placements.
- Enter into agreements with private providers to test a managed care concept, with clearly specified and measurable outcomes to be achieved for each family, at a fixed cost negotiated in advance, with the expectation that fiscal incentives would produce a better result with no increase in cost.
- Enter into agreements with Indian Tribes to permit full access to all aspects of title IV-E funding, with the expectation that services for tribal children and families will improve, while State costs of providing or managing those services will decline.
- Where court processes are unduly delaying adoptions, enter into agreements with courts to fund adoption-related work as if it were an administrative cost under title IV-E, with the expectation that the courts would then be able to speed adoptions, producing

permanency for children earlier, and reducing foster care and case management costs.

- Seek a waiver of some provision(s) of title IV-A (AFDC), possibly in combination with a title IV-E or IV-B waiver, which might help achieve child welfare objectives. For example, a waiver which allowed a State to continue AFDC payments (in whole or in part) for a period of time, for a family from which the children had been removed, but where reunification is the goal and the loss of AFDC benefits would likely result in homelessness, thus frustrating reunification efforts.

Tab D

Delaware Child Welfare Waiver Demonstration Project

The proposal has two essential components aimed at ensuring permanency for children. The first component employs a multi-disciplinary team composed of treatment social workers and substance abuse counselors. The second component will support children who are placed in supported guardianship is transferred in situations where adoption is not possible and an identified family has made a long-term commitment to the child.

The State has seen a rise in the number of children entering foster care over the last 3 years, due largely to parental substance abuse. Through the use of multi-disciplinary teams, treatment will be provided to families experiencing both substance abuse and child abuse and neglect, thus providing services to children who would otherwise be entering foster care. Title IV-E funds normally used for foster care will be directed to pay for the cost of treatment services.

The goal of the demonstration project is to prevent or delay entry of children into foster care or reduce the time in out-of-home care in 50% of the families receiving services under the project.

The State premise is that the multi-disciplinary treatment project would improve the quality of services provided to families receiving services and improve outcomes for children under its protection. It has been extremely difficult for the State to provide effective services to families with active addiction. Social workers spend a great deal of time trying to connect families with substance abuse agencies, only to have the treatment agency discharge clients because of lack of commitment to treatment. Substance abuse counselors would have the expertise to more accurately assess the seriousness of the problem, make referrals to the most appropriate service and agency, help the social worker confront the family's denial of the problem, assist the social worker in court intervention when necessary and where able, reduce the impact of parental addiction on children.

Under the supportive guardianship component, the State will utilize title IV-E funds to provide financial subsidies in support of children who are placed in guardianship in situations where adoption is not possible and an identified family has made a long-term commitment to the child. Adding guardianship to the permanency continuum which includes adoption and long-term foster care broadens the options available to children and families. Guardianship will enable the family to assume the parental role without ongoing agency oversight but the family will have the ability to return to the agency for services as needed. The

child's case will be removed from the foster care review system, saving time and money for the family, the agency, and the court system. The State contends this change will better serve the children and youth involved. Children and caretaking guardians will be freed of the burdensome State review system and the degree of intrusiveness currently existing. They will receive ongoing financial assistance and other services will be available as needed. Children who are older and/or positively connected to parents or kin will be able to maintain those birth ties. Guardianship will not replace adoption where it is appropriate. Long-term foster care placement with agreement will remain an option where guardianship is not possible.

TAB B

[SUMMARIES OF STATE CHILD WELFARE WAIVER PROPOSALS, AS PUBLISHED IN THE FEDERAL REGISTER FOR COMMENT 9-7-95]

STATE: CALIFORNIA
DESCRIPTION: California proposes to extend, and broaden to include the use of federal funds, a planned State Partnership Demonstration Project that will provide direct funding to counties for the implementation of child welfare services. Participating counties would receive from the State a single allocation of funds for family and children's services, rather than using categorical funding streams.

The project would enhance the counties' abilities: to meet families' needs more comprehensively; to increase the focus on outcomes; to provide additional in-home services which will result in less need for out of home care; and to contain costs.

The State anticipates that enhanced flexibility in the use of federal funds, reduced administrative requirements and a new "outcome-oriented oversight role" will improve outcomes for children and families, including more effective prevention services that will reduce the need for out of home care. The State is particularly interested in promoting a whole family foster care program and long term options for children in kinship care.

The State proposes, potentially, to waive a large number of statutory (and regulatory) provisions, which would be based on negotiations among federal, State and local child welfare services officials regarding specific local waiver proposals. For each of many statutory provisions, the state proposes conditionally to "request waiver of this section to the extent necessary to implement the proposed demonstration project." Statutory items include certain title IV-E State plan requirements, title IV-E income eligibility requirements, statutory definitions (including definitions of eligible facilities), requirements regarding adoption assistance payments, required statistical reports, and Independent Living Program eligibility requirements. Regulatory items proposed for waiver include limitation on the sources of state match, cost allocation plan requirements, general grant administration requirements, fiscal regulations, the State allotment determination formula, payment review and facility licensing standards, and regulations regarding the withholding of federal funds.
CONTACT PERSON: Marjorie Kelly, Deputy Director
Children and Families Services Division
California Department of Social Services
744 P Street M.S. 19073
Sacramento, CA 95814
(916) 657-2614, (916) 653-1695 (FAX)

STATE: DISTRICT OF COLUMBIA

DESCRIPTION: The District of Columbia proposes to develop a community-based therapeutic model of services to serve as an alternative to placing children in more restrictive institutional settings, as well as providing a transitional bridge for those children returning to the community upon discharge from institutional care.

The flexible use of title IV-E and IV-B funds would allow for the development and provision of a community-based model of therapeutic services to prevent foster home and institutional placement and would increase inter/intra agency and multi-system coordination of services.

The demonstration project would include the use of a "managed care" approach through the use of rate setting procedures to include articulated caps, and a system to provide comprehensive multi-system social and support services. The community-based therapeutic approach would include specialized emergency foster care homes; shared family care; in-home treatment; use of professional surrogate parents; and substance abuse treatment services.

The District of Columbia proposes title IV-E waivers to allow payment for services, and to permit the support of alternatives to foster home and institutional placement through use of a rate-setting process to be established under the demonstration project.

CONTACT PERSON:

Ricardo Lyles
Acting Administrator
Family Services Administration
District of Columbia Department of Human Services
609 H Street, N.E.
Washington, D.C. 20002
(202) 724-8756
(202) 727-9460 (FAX)

STATE: GEORGIA
DESCRIPTION: Georgia proposes to use title IV-E funds to fund preventive and supportive services for children and families at risk, to eliminate the need for placement or reduce the time a child spends in out of home care. Additionally, Georgia seeks to place children in neighborhood settings; provide specialized living arrangements for adolescents, and obtain special adoption assistance to expedite the placement of children into adoptive homes.

The benefits for this demonstration project include removing systems barriers, decreasing or avoiding the amount of time a child spends in out of home care, providing more stable placements, expanding preventive and family support service systems and increasing adoptive placements by making resources available to adoptive families that otherwise would not qualify.

The services to be provided under the demonstration project include family support and prevention services, expansion of kinship care, and community placement services.

Georgia proposes to expand title IV-E coverage to include placement prevention and reunification services. The State also wishes to waive some provisions of title IV-E eligibility determination when a child comes into custody, provide a special waiver to provide adoption assistance to pay for the purchase of services to expedite adoptive placement, and provide funds for adoptive parents for one-time expenses related to the placement of a specific child in the home. Georgia also seeks a waiver to permit title IV-E funds to support a kinship care assistance subsidy, and a waiver of some provisions of title IV-A to allow families whose children are in foster care to continue receiving food stamps, when reunification is expected to occur within 180 days.

CONTACT PERSON: Doris Walker
Foster Care Unit Chief
Georgia Department of Human Resources
Division of Family and Children Services
Two Peachtree Street, N.W., Suite 12-300
Atlanta, GA 30303-3180
(404) 657-3458
(404) 657-3415 (FAX)

STATE: ILLINOIS
DESCRIPTION: Illinois is proposing a subsidized private guardianship as a permanency planning option which would meet the needs of the long-term kinship care population, in order to reduce the number of children in long-term foster care and to reduce the number of disrupted placements.

Illinois seeks to improve permanency outcomes for children in healthy kinship care arrangements in cases where reunification and adoption are not possible. The demonstration project would reduce government intrusion in family life while creating support and clinical management systems which minimize risk through annual reviews of subsidized private guardianship and continuous promotion of adoption options.

Illinois would provide a subsidized private guardianship program (which parallels the adoption subsidy program) for a random group of eligible caregivers.

The State proposes a waiver of title IV-E to permit withholding subsidized guardianship from a randomly selected control group; a waiver of certain provisions of the Adoption Assistance Program to authorize subsidized guardianship for children who meet the eligibility requirements of Section 673 and additional requirements set by the State, in order to authorize payment of nonrecurring guardianship expenses, and for guardianship assistance payments for children; a waiver of eligibility requirements to limit assistance to special needs children; a waiver that would permit federal financial participation in amounts expended as guardianship support payments pursuant to guardianship assistance agreements; and a waiver to authorize federal financial participation in amounts expended on training and administration for the subsidized guardianship program and a waiver of the provision defining "adoption agreement" to allow that term to include "guardianship assistance agreement."

CONTACT PERSON: Joe Loftus
Executive Deputy Director
Illinois Department of Children and
and Family Services
100 West Randolph, 6th Floor
Chicago, IL 60601
(312) 814-8741
(312) 814-6859 (FAX)

STATE: INDIANA
DESCRIPTION: Indiana proposes to divert per diem funds from restrictive (primarily institutional) placements to more community-based services in order to create more home-based in-state placements for children, placements which would be more supportive of family unity.

The effort would result in fewer high cost, out of state child placements; fewer removals from home, and earlier reunification; improved family functioning; expeditious adoptions; timely transitions to independent living; and improved outcomes for children.

Indiana would modify existing interagency agreements between the Division of Family and Children Services and juvenile court judges to include community partners such as mental health, education and the Step Ahead Council. The local office of Family and Children Services, the county probation office, community mental health center or the school corporation seeking placement of a child would convene a meeting of partners to develop alternatives to restrictive placement.

Indiana proposes to waive title IV-E to permit payment of proposed services: even when a child has not been judicially removed from the home; in order to prevent the placement of a child in out of home care; and for the child in substitute care who is not categorically eligible for title IV-E foster care.

CONTACT PERSON: James Hmurovich
Director
Division of Family and Children
Family and Services Administration
Room W392, Government Center south
402 West Randolph Street
Indianapolis, IN 46204
(317) 232-4705
(317) 232-4490 (FAX)

STATE: MARYLAND
DESCRIPTION: Maryland proposes to add federal guardianship assistance as a permanency planning option which would more closely meet the needs of the kinship care population.

This effort would result in reduced average length of stay in out of home placement for children; increased stability for children, and empowerment/support for the caretaking family.

Under this demonstration project in order to be eligible a child would have to be committed to the local department of social services as a child in need of assistance and to have been in a successful out of home placement with the prospective guardian for a minimum of six months. Reunification and adoption would have to be appropriately ruled out as permanency planning options. Resources for the child (SSI, Social Security Survivor's Benefits, etc.) would be transferred to the guardian and deducted from the subsidy. Prospective guardians would be required to sign a guardianship agreement which would require annual renewal.

CONTACT PERSON: Fern Blake
Maryland Department of Human Resources
311 West Saratoga Street
Baltimore, MD 21201-3521
(410) 767-7269
(410) 333-0099 (FAX)

STATE: MICHIGAN
DESCRIPTION: Michigan proposes to increase its emphasis on family preservation and family support services and decrease the need for and reliance on out of home care by using title IV-E funds to provide services.

The effort would result in controlled growth of title IV-E maintenance expenditures; greater collaboration among federally-funded programs; increased ability to provide services for families; and decreased reliance on out of home care.

Michigan is proposing to treat title IV-E maintenance payments (other than those for adoption subsidy) as a capped entitlement. The State is proposing to use the funds for service provision, in some cases augmenting funds now being expended under title IV-B Subpart 1 (Child Welfare Services) and Subpart 2 (Family Preservation and Support). The funds would be used to expand grants to local communities and to implement family preservation and support services more quickly.

Michigan is proposing to waive those provisions of title IV-E which restrict States from expending these funds for the provision of services. Michigan excludes title IV-E adoption assistance from its waiver proposal.

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STATE: NEW YORK
DESCRIPTION: New York proposes to use a managed care approach to child welfare services to recapture revenue for reinvestment in preventive and aftercare services in local communities.

The benefits of this effort would be an accelerated decline in the foster care population; an increase in the level of services; and a reduction in the length of stay in foster care.

New York proposes to apply the principles of managed care to its foster care and adoption assistance programs by identifying preset payments for a range of services for a specified population over a predetermined period of time (capitated payments) and adjusting treatment regimens in light of outcomes so that the client receives the necessary services to continue to make progress toward the stated goals of intervention (care management). The State also proposes to increase the availability of child welfare services so that pre-placement preventive and aftercare services can be intensified.

New York proposes to waive: title IV-E requirements regarding the eligibility of children and of foster care facilities; the definition of "special needs" for which title IV-E funds may be used; the circumstances under which these funds may be claimed; and certain requirements concerning title IV-E administration and training.

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STATE: NORTH CAROLINA
DESCRIPTION: North Carolina proposes outcome-based management of foster care, in which foster care funding is tied to specific outcomes related to diverting children from foster care whenever possible and moving quickly to achieve permanence for children.

The benefits from this demonstration effort would: link funding and outcomes and measure the effect on service delivery system performance; demonstrate and evaluate the effectiveness of a comprehensive outcome-based approach; decrease the amount of time children spend in foster care, reduce the number of new entries into foster care, and promote collaborative planning and coordination of services with several other initiatives currently underway in the State.

The proposed demonstration effort has two parts. Part I is designed to encourage the development of effective community-based reunification, adoption and aftercare services. Part II is designed to achieve a paradigm shift that allows local programs to move resources from treatment to prevention.

The waiver requests the use of title IV-E foster care funds on behalf of children not presently eligible: to allow local social service agencies to use a capitated rate structure with incentives for achieving specified outcomes; to allow local social service agencies to contract with public, private non-profit and private for profit entities as needed to develop an effective community network of services; and to allow participating agencies to reinvest savings realized from performance excellence in child welfare services.
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STATE: OHIO
DESCRIPTION: Ohio proposes to reduce child removals and/or time of children in placement and associated costs through the use of managed care technology to provide a broader array of services to children and their families.

The benefits of this effort would include decreasing placement costs, increasing the level and quality of services; strengthening local partnerships; and expediting the permanency planning process.

The proposed demonstration effort represents a partnership between public children's service agencies (PCSAs), the Ohio Department of Human Services (ODHS), and managed care entities (MCE). Decision making and risk will be shared among the PCSAs, ODHS and the MCE. ODHS's role is that of coordinator, facilitator and provider of training and technical assistance. The PCSAs' role is primarily as purchasers of services, and they may or may not provide all the direct service functions themselves. The MCE will be responsible for administrative and management functions, medical/clinical reviews, utilization management and service authorization, developing and operating a management information system, developing contracts with providers and payers, and consumer satisfaction-related duties.

The current system of services will continue but with managed care options being considered at decision making points. A policy consortium will be created to develop and implement policy and practices that support permanency planning and provide guidance to the local PCSAs. The terms and conditions developed by the Consortium will bind the provider agencies to uniformly implement the agreed upon practice criteria and to ensure consistency for evaluation purposes across the waiver sites.

Ohio proposes to waive a number of title IV-E provisions that relate to restrictions on child eligibility, and prohibitions on the use of title IV-E funds for the provision of services.

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STATE: OREGON
DESCRIPTION: Oregon proposes to use title IV-E funds for services including but not limited to prevention and support services, protective services, crisis intervention and reunification services. The State also proposes to develop a kinship foster care rate that would be individually determined based on the needs of the child.

The demonstration project would provide flexible funding for abused and neglected children and their families and/or caregivers to receive individual services, regardless of where the chid is placed. Specific outcomes expected would include decreasing the length of foster care placement, increasing the number of children remaining safely in their homes, increasing the use of relative caretakers for children who must be placed out of the home, having more appropriate foster care resources and better utilization of community resources.

The proposed demonstration project would provide support to biological, foster and kinship caretakers through a myriad of services. The State proposes to shift toward a statewide system of in-home care services delivery, insure a match between the child's needs and the skill of the caretakers, establish mechanisms that will refocus the out of home care systems and move closer to implementation of a "first placement/only placement" objective for children who are unable to remain with their parent(s).

Oregon proposes to waive those provisions of title IV-E: that require a State to make foster care maintenance payments; that require that foster care maintenance payments be made only on behalf of a child who resides in a foster family home or a child care institution; and that concern the conditions for federal reimbursement for voluntary placements.

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STATE: WEST VIRGINIA
DESCRIPTION: West Virginia will create a comprehensive, decentralized, specialized system to determine a child's potential eligibility for all funding resources for child welfare programs.

The proposed system would maximize the State's child welfare funds by identifying and accessing additional financial resources available to children in care. The new system would emphasize parental obligation and encourage parental participation.

A resource development unit will be created to identify, pursue and produce accurate claims for all sources of funds to which a child in care may be entitled, e.g., child support, SSI, Black Lung, Railroad Retirement, third party medical, SSA, Veterans's Benefits and titles IV-A, IV-B and IV-E.

West Virginia is requesting a waiver of the title IV-E limit of fifty percent for Federal Financial Participation in a State's administrative costs.

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