



Memorandum

September 19, 1997

SUBJECT : Comparison of Pending Adoption Proposals and Current Law

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

Bills included in the comparison are the:

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

CRS-2

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Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
L. "Reasonable Efforts" and Child Safety Provisions				
1. "Reasonable efforts" to preserve and reunify families	In every case, states must make "reasonable efforts" to avoid the need to remove a child from home, and to make it possible for a child to return home after placement in foster care — Sections 471(a)(15), 472(a)(1). Under CAPTA, no later than October 3, 1998, states must have provisions, procedures, and mechanisms in effect to assure that the state does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction to have killed or assaulted another of their children — Section 106(b)(2)(A)(xii) of CAPTA. States also must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental	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, sexual abuse); • a parent has killed or assaulted another of their children; or • a parent's rights to a sibling have been involuntarily terminated. In these cases, states would not be required to make reasonable efforts 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	States would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety; and to reunify families unless a court determines that reunification would endanger the child's health or safety, or in cases specified in state law, such as: • cases in which a court has found that a parent has killed or assaulted another of their children; or • cases in which a court has found that a parent has abandoned, tortured, chronically abused, or sexually abused the child. By October 3, 1999, states must enact and enforce laws that specify cases (such as those listed above) in which reunification efforts would not be required, and in which grounds exist for expedited termination of parental rights without efforts to reunify the family — Section 102.	States would be required to make reasonable efforts when possible, to preserve families when the child can be cared for at home without endangering the child's health or safety; or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent: • 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 their health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or previous involuntary termination of parental rights to a sibling); or • if the state has specified in legislation cases in which

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	rights) — Section 106(b)(2)(A)(xiii) of CAPTA.	to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 9) — Section 2.		reasonable efforts would not be required. Reasonable efforts to preserve or reunify families could be made concurrently with reasonable efforts to place a child for adoption, with a qualified relative or legal guardian, or in another planned, permanent arrangement (see item 9) — Section 101.
2. Consideration of child health and safety	No comparable provision in the Social Security Act. Under CAPTA, states must have provisions or procedures for reporting child abuse and neglect; for screening, assessing, and investigating such reports; and for ensuring and protecting the safety of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect and ensuring their placement in a safe environment — Section 106(b)(2)(A)(iii) of CAPTA.	In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern — Section 2.	In determining reasonable efforts, the child's health and safety must be the paramount concern — Section 102. In addition, current law would be amended to include references to child safety in provisions dealing with child welfare services, case plan and case review procedures — Sections 101(a) and 103.	Same as S. 511 — Sections 101 and 102.
3. Termination of parental rights	No comparable provision in the Social Security Act.	In the case of a child who is younger than 10 and has been	As stated in item 1, by October 3, 1999, states would	In the case of: • a child who has been in

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	Under CAPTA, as stated in item 2, states must (by October 3, 1998) have provisions to assure that they will not require reunification of a surviving child with a parent who the court finds has killed or assaulted another of their children; and after such provisions are in effect, the state must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental rights) — Section 106(b)(2)(A)(xii) and (xiii) of CAPTA. In addition, by October 3, 1998, states must have provisions, procedures, and mechanisms for expedited termination of parental rights in the case of infants determined to be abandoned under state law — Section 106(b)(2)(A)(xi)(I) of CAPTA.	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.	be required to enact and enforce laws specifying cases (such as where a court has found that a parent has killed or assaulted another of their children, or has abandoned, tortured, chronically abused, or sexually abused the child) where grounds exist for expedited termination of parental rights without first requiring family reunification efforts — Section 102.	foster care for 12 of the most recent 18 months; or • a child who has been in foster care for a lifetime total of 24 months; or • an infant who is determined by the court to have been abandoned (as defined under state law); or • a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children; states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless: • at the option of the state, the child is being cared for by a relative; or • a state court or agency has documented a compelling reason for determining that filing such a petition would

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				not be in the best interests of the child — Section 104(a). A child would be considered as having entered foster care on the later of: • the first date that the child is removed from home; or • the date of the first judicial hearing on the child's removal — Section 104(b). Nothing in Title IV-B, as amended by this legislation, would be construed as precluding state courts or agencies from initiating or finalizing termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests — Section 104(d). In general, this provision would apply to children entering foster care after the date of enactment. For children in foster care on or before the date of enactment, this provision would not apply

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				until 1 year after the date of enactment. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(e).
4. Limitations on Appeals	No provision.	No provision.	No provision.	States would be required to provide that orders terminating parental rights, and court-ordered child removals, would only be appealable during the 1-year period beginning on the date the order is issued. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(c).
5. Child death review teams	No provision in the Social Security Act. Under CAPTA, states must designate at least 3 citizen review panels (small states must designate at least 1), which are representative of the local community. Existing entities such as foster care review boards or child death review teams may	No provision.	No later than 5 years after enactment, states would be required to certify that they have established and are maintaining a multidisciplinary state child death review team (and, if necessary, regional and local teams) to investigate child deaths, including those where there has been a prior report of abuse or neglect or there is reason to suspect that	Same as S. 511, except: • states would have to certify that they have established and are maintaining child death review teams no later than 2 years after enactment; • death review teams would not be required to investigate deaths resulting from suicide,

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	be designated if they can perform the required functions. These panels must examine policies and procedures of state and local agencies, and individual cases if appropriate, to determine if the agencies are operating in accordance with their state CAPTA plan, child protection standards, and any other criteria considered important by the panel, including a review of coordination between state child protection programs and foster care and adoption programs under the Social Security Act, and a review of child fatalities and near fatalities — Sections 106(b)(2)(A)(x) and 106(c) of CAPTA.		the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency, or the death was a suicide, or the cause of death was unexplained or unexpected. In addition, HHS would be required to establish a federal child death review team (with representatives from other federal agencies) to investigate deaths on federal lands, review the status of state and local teams, provide guidance and technical assistance, review state and local data to identify national trends in child deaths, and make recommendations to prevent child deaths — Section 104.	or cases in which the cause of death was unexplained or unexpected; responsibilities of the federal team would be limited to investigating deaths on federal lands, providing guidance and technical assistance to state and local teams upon request, and making recommendations to prevent child deaths — Section 103.
6. Criminal record checks	No provision.	At state option, states could provide (as a component of their Title IV-B plan) procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally	Same as H.R. 867, except the provision would be mandatory for states, rather than optional — Section 205.	Same as S. 511 (i.e., provision would be mandatory for states), except: S. 511 and H.R. 867 would require states to deny approval in certain cases where there has been a criminal conviction; however, the draft would allow states to

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

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payments		Human Services (HHS) would be authorized to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in FY1997, or in a subsequent base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for each adoption of a foster child with special needs. For these incentive payments, \$15 million would be authorized for each of fiscal years 1999-2003. Relevant budget acts would be amended to require adjustments in discretionary spending limits — Section 4.		• adoption incentive payments would equal \$2,000 for each adoption of a foster child above the base number, and \$4,000 for each adoption of a foster child with special needs; • adjustments to discretionary spending limits would not be required — Section 201. Information required by the PASS Act would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 31).
9. "Reasonable Efforts" to place children for adoption or other permanent arrangement	No provision.	If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (or are no longer consistent with the child's permanency goal), then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another	When a child's permanency goal is adoption or another permanent placement, states would be required to make reasonable efforts to place the child in a timely manner for adoption, with a legal guardian, or in another planned, permanent arrangement, and to complete necessary steps to finalize the adoption or guardianship —	If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1, and placement with either parent would pose a serious risk to the child's health or safety, or in any case when a child's permanency goal is adoption or another permanent placement, then states would be required to make

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

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		information exchanges, including electronic exchange systems — Section 7.		
11. Eligibility for adoption assistance	Federally subsidized adoption assistance payments are made on behalf of children with special needs as defined by the state. Eligible children must have been eligible for Aid to Families with Dependent Children (AFDC) at the time adoption proceedings began (except that they had been removed from their family as a result of a voluntary agreement or judicial determination that remaining with the family would be contrary to their welfare), or must be eligible for Supplemental Security Income (SSI), or must be living in foster care with a minor parent who is eligible for foster care subsidies under Title IV-E. The amount of the adoption assistance payment made to an adoptive family is based on the needs of the child and the circumstances of the family, but may not exceed the foster care payment that the child would have been	No provision.	Federally subsidized payments would continue to be made on behalf of children with special needs as defined by the state. AFDC and SSI eligibility provisions would be deleted. Eligible children would be those who, prior to termination of parental rights and initiation of adoption proceedings, were in the care of a public or nonprofit agency or Indian tribe as a result of a voluntary agreement or judicial determination that remaining in the home would be contrary to their welfare, or were living in foster care with their minor parent. An otherwise eligible child who is not a U.S. citizen or resident would be eligible for assistance, except for children who were adopted outside the U.S. or brought to the U.S. to be adopted. An otherwise eligible child whose adoptive parent dies or whose adoption is disrupted would remain eligible for assistance — Section 303.	Same as S. 511, except: • reiterates current law requirement that the child's special needs, together with the circumstances of the adoptive parents, must be considered in determining the amount of any payment to be made to the adoptive parents; • states would be required to spend an amount equal to any savings resulting from this provision to provide services to children and families (including post-adoption services) that are allowable under Titles IV-B or IV-E; and • otherwise eligible children in the custody of for-profit agencies would be eligible for adoption assistance under Title IV-E — Section 202.

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	eligible to receive — Section 473(a)(2).			
12. Technical assistance to promote adoption	No provision in the Social Security Act. Under the Adoption Opportunities program, HHS is authorized to enter into grants and contracts with public and private nonprofit agencies for various activities intended to promote adoption, particularly for special needs children — Title II of the Child Abuse and Adoption Reform Act of 1978.	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.	No provision.	Same as H.R. 867, except: • would also authorize technical assistance for development of programs to recruit adoptive parents; and • no authorization of appropriations would be included — Section 203.

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
13. Interstate adoption	No provision.	No provision.	The Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of their appointment, including recommendations for improvements. The Secretary would forward the report to Congress, and, if relevant, make recommendations for legislation — Section 305.	Same as S. 511, except for minor modifications in membership of advisory panel — Section 204(b). In addition, states would be required to provide that neither the state nor any other entity in the state that receives federal funds would: • deny to any person the opportunity to become an applicant for child custody, licensure as a foster or adoptive parent, or foster care or adoption assistance under Title IV-E on the basis of geographic residence; or • delay or deny the placement of a child for adoption, into foster care, or in the child's original home on the basis of geographic residence — Section 204(a).
III. Foster Care Provisions				
14. Foster care case review system	The status of every child in foster care under state responsibility must be reviewed by a court or	States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of	Same as H.R. 867, except: • states also would be required to hold subsequent	Same as S. 511 — Section 302.

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

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

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

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		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.		protecting children, with the first report due on October 1, 1998. The Secretary would be required to develop outcome measures that could track state performance over time in the following categories: • 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. States would be required to provide information on adoption, foster care, and guardianship, as determined

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	Under CAPTA, HHS is authorized to enter into grants or contracts with public and private nonprofit entities for time-limited demonstration programs and projects for the following purposes: • training for professionals and paraprofessionals in various disciplines related to child abuse and neglect, improving use of volunteers, and establishing resource centers to provide information and training related to child abuse and neglect; • mutual support programs for families; • innovative projects that establish a triage system to respond to child abuse and neglect through partnerships among the state and community agencies; • kinship care projects (see item 19); and • supervised visitation		grants to states for innovation projects. States could submit applications in FY1998 or FY1999. Projects would last for 5 years, could not require waivers from federal law, would include evaluations, and would address the following goals: • reduce backlogs of children awaiting adoption; • ensure permanent placements within 1 year of foster care; • identify and address barriers to permanent placements; • implement community-based permanency initiatives and child protection activities that involve partnerships; • assist with state safety guidelines; • develop new staffing approaches — Section 401.	through FY2003, rather than provided as entitlement funding — Section 308.

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation — Section 13.	Substance Abuse Treatment. The report would be due within 12 months of enactment, and would be updated biennially. State substance abuse and child welfare agencies would be required to jointly prepare a report on joint activities, due to HHS within 12 months of enactment. Within 18 months of enactment HHS would report to Congress on substance abuse and child welfare issues, including recommendations for legislation — Section 201.	Comptroller General would be required to report to Congress within 18 months of enactment, describing: substance abuse needs of child welfare clients and the extent to which these needs are being met; barriers to substance abuse treatment faced by child welfare clients; collaborative state substance abuse and child welfare activities; available data on treatment and its effectiveness for child welfare clients; and recommendations for promoting collaboration among state substance abuse and child welfare agencies — Section 306(a).
22. Priority for substance abuse treatment	Pregnant women are given priority for substance abuse treatment under a federal substance abuse block grant — Section 1927 of the Public Health Service Act.	No provision.	The Public Health Service Act would be amended to provide that all caretaker parents who are referred for substance abuse treatment by a state or local child welfare agency would also be given priority for such services — Section 202.	Same as S. 511 — Section 306(b).
23. Foster care payments for children with parents in residential institutions	Federally subsidized foster care maintenance payments may be made on behalf of eligible children who are	No provision.	Federally subsidized foster care payments could also be made on behalf of eligible children who are placed with	Same as S. 511, except: the provision could also apply to a parent trying to overcome

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	placed in a licensed foster family home, or a licensed child care institution — Section 472(b).		their parent in a residential program that provides services for parents and children, including parenting services, in cases where: • the parent is trying to overcome substance abuse, domestic violence, homelessness, or has special needs due to teenage parenthood; • the child's safety can be assured; • the program provides appropriate services for parent and child; • the child's permanency plan is family reunification within a specified period; and • the parent has not previously been treated in a residential program serving children and parents together — Section 203.	post-partum depression; and • the amount of the foster care maintenance payment that would be made to the residential program on behalf of the child could not exceed the amount that would otherwise have been made on behalf of the child — Section 306(c).
VL Additional Provisions				
24. Kinship care report	No provision.	The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the	No provision.	Same as H.R. 867, except, rather than convening a new advisory panel, the Secretary would be directed to use the Advisory Board on Child

Provision	Current Law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		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.		Abuse and Neglect (ABCAN) authorized under CAPTA. If ABCAN did not exist, then the Secretary would convene an advisory panel as directed by this legislation — Section 303.

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

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

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

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
				These amendments would take effect as if included in the welfare reform law of 1996 — Section 404.
VII. Effective Dates	Not applicable.	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.	October 1, 1997 — Section 501.	Same as H.R. 867, except for provisions dealing with termination of parental rights (see item 3) and allocation of administrative costs under TANF and other means-tested programs (see item 33).

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would support an expanded harvest level. However, New England's past has taught us that in an unregulated environment, this current healthy condition could rapidly be reversed. Given the present lack of a Federal fishery management plan for herring and questionable scientific information on the status of the stocks, the uncontrolled expansion of this fishery could have devastating consequences.

We need to slow down the increase in fishing power entering the herring fishery, and we need to give the New England Council the time to develop a thoughtful Federal management plan for herring that responds to local interests and needs. While I had hoped that the council and the Secretary of Commerce would be able to accomplish these goals through the process established by the Magnuson-Stevens Act and other fishery laws, it has become clear in recent weeks that we must impose temporary legislative safeguards until that process is complete.

The bill which Senators SNOWE, KENNEDY, and I are introducing today, the North Atlantic Fisheries Resource Conservation Act, provides those safeguards. First, by September 30, 1998, the New England and Mid-Atlantic Councils and the Secretary of Commerce are required to develop and implement both a fishery management plan for herring and a plan amendment for Atlantic mackerel. Second, a fishing vessel that is longer than 165 feet or has engines that exceed 3,000 horsepower is prohibited from harvesting either herring or mackerel until the councils and the Secretary have addressed the potential impact of such vessels in the management plan.

While the provisions of the North Atlantic Fisheries Resource Conservation Act are specific to two Northeast fisheries, the issues which they address should become part of a broader national policy debate about our vision for the American fishing industry in the 21st century. For over two decades, our fishery policies have focused on two goals: conservation and management of U.S. fishery resources and development of the domestic fishing industry. We have succeeded beyond our expectations in achieving the second goal of developing the U.S. fishing industry. I am optimistic that the Sustainable Fisheries Act will move us toward achieving the first goal of improving conservation and management. With the achievement of those goals, however, come new questions. What do we want our fishing industry to look like in the years to come? What should we as a nation do to preserve traditional coastal communities centered on small-boat fishermen? What restrictions if any should be placed on enormous factory trawlers? In New England, these large ships conjure up memories of foreign factory trawlers vacuuming up and destroying U.S. fishery resources in the days before the Magnuson-Stevens Act. Are such ships an appropriate element in other U.S. fisheries?

The legislation before us today focuses on the actions needed to safeguard the Atlantic herring and mackerel fisheries. However, I look forward to the broader debate. By the prompt enactment of this legislation I hope we can contribute to that debate and begin to shift the national example set by New England fisheries from one of overfishing and painful rebuilding toward one of conservative management that is successful in preserving both the fishermen and the fish.

By Mr. CHAFEE (for himself, Mr. CRAIG, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. DEWINE, Mr. COATS, Mr. BOND, Ms. LANDRIEU, and Mr. LEVIN):

S. 1195. A bill to promote the adoption of children in foster care, and for other purposes; to the Committee on Finance.

THE PROMOTION OF ADOPTION SAFETY AND SUPPORT FOR ABUSED AND NEGLECTED CHILDREN ACT

Mr. CHAFEE, Mr. President, I am pleased to introduce the Promotion of Adoption, Safety and Support for Abused and Neglected Children Act, the so-called PASS Act. This legislation will make critical reforms to the Nation's child welfare and foster care system and will go a long way toward improving the lives of the hundreds of thousands of abused and neglected children across America. These are children without a safe family setting. They are children who face abuse and neglect every day of their lives. They are America's forgotten children. And, all too often, they are children without hope.

This chilling picture has brought the sponsors of this bill together to take immediate action. The goals of the PASS Act are twofold: to ensure that abused and neglected children are in safe settings, and to move children more rapidly out of the foster care system and into permanent placements.

While the goal of reunifying children with their biological families is laudable, we should not be encouraging States to return abused or neglected children to homes that are clearly unsafe. Regrettably, this is occurring under current law.

About 500,000—half a million—abused or neglected children currently live outside their homes, either in foster care or with relatives. In Rhode Island alone, there are nearly 1,500 children who have been removed from their homes and are in foster care. The Rhode Island Department of Children and Families has an active case load of about 7,700 children who have been abused or neglected.

Many of these children will be able to return to their parents, but many will not. Too often, children who cannot return to their parents wait for years in foster care before they are adopted. In today's child welfare system, it has become a lonely and tragic wait with no end. To us, that is an unacceptable way of life for any child to have to endure.

The PASS Act seeks to shorten the time a child must wait to be adopted, all the while ensuring that wherever a child is placed, his or her safety and health will be the first concern.

The PASS Act also contains important new financial incentives to help these children find adoptive homes. State agencies will receive bonuses for each child that is adopted, and families who open their hearts and their homes to these children will be eligible for Federal financial assistance and Medicaid coverage for the child.

I believe the PASS Act is a good bipartisan, compromise package. The sponsors of this bill have worked hard to come together in support of a child welfare reform bill. And we expect this new, revised legislation to move quickly through the Senate, as the Majority Leader has indicated that adoption legislation is one of a select few priorities to be dealt with before expected adjournment in early November.

But the real reason we need to move this bill is not because of legislative haste. It is because each passing day we do not act to bring hope and relief to abused and neglected children is a dark day for Congress and the Nation.

Finally let me thank my friend JAY ROCKEFELLER, who has worked so tirelessly on these issues and whose leadership was key to this bill. I also want to pay special tribute to LARRY CRAIG—without his commitment to these children this agreement would not have been possible. I am proud of this bipartisan effort, and I hope all of my colleagues will support this measure. I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1195

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act".

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

Sec. 1. Short title; table of contents.

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

Sec. 101. Clarification of the reasonable efforts requirement.

Sec. 102. Including safety in case plan and case review system requirements.

Sec. 103. Multidisciplinary/multiagency child death review teams.

Sec. 104. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.

Sec. 105. Notice of reviews and hearings; opportunity to be heard.

Sec. 106. Use of the Federal Parent Locator Service for child welfare services.

Sec. 107. Criminal records checks for prospective foster and adoptive parents and group care staff.

Sec. 108. Development of State guidelines to ensure safe, quality care to children in out-of-home placements.

Sec. 109. 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. Promotion of adoption of children with special needs.

Sec. 203. Technical assistance.

Sec. 204. Adoptions across State and county jurisdictions.

Sec. 205. Facilitation of voluntary mutual reunions between adopted adults and birth parents and siblings.

Sec. 206. Annual report on State performance in protecting children.

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

Sec. 301. Expansion of child welfare demonstration projects.

Sec. 302. Permanency planning hearings.

Sec. 303. Kinship care.

Sec. 304. Standby guardianship.

Sec. 305. Clarification of eligible population for independent living services.

Sec. 306. Coordination and collaboration of substance abuse treatment and child protection services.

Sec. 307. Reauthorization and expansion of family preservation and support services.

Sec. 308. Innovation grants to reduce backlogs of children awaiting adoption and for other purposes.

TITLE IV—MISCELLANEOUS

Sec. 401. Preservation of reasonable parenting.

Sec. 402. Reporting requirements.

Sec. 403. Report on fiduciary obligations of State agencies receiving SSI payments.

Sec. 404. Allocation of administrative costs of determining eligibility for Medicaid and TANF.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

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

SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS REQUIREMENT.

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

"(15) provides that—

"(A) in determining reasonable efforts, as described in this section, the child's health and safety shall be the paramount concern;

"(B) reasonable efforts shall be made to preserve and reunify families when possible—

"(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home when the child can be cared for at home without endangering the child's health or safety; or

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

"(C) reasonable efforts shall not be required on behalf of any parent—

"(i) if a court of competent jurisdiction has made a determination that the parent has—

"(I) committed murder of another child of the parent;

"(II) committed voluntary manslaughter of another child of the parent;

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

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

"(ii) if a court of competent jurisdiction determines that returning the child to the home of the parent 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 with respect to a sibling of the child); or

"(iii) if the State, through legislation, has specified cases in which the State is not required to make reasonable efforts because of serious circumstances that endanger a child's health or safety;

"(D) if reasonable efforts to preserve or reunify a family are not made in accordance with subparagraph (C), and placement with either parent would pose a serious risk to the child's health or safety, or in any case in which a State's goal for the child is adoption or placement in another permanent home, reasonable efforts shall be made to place the child in a timely manner with an adoptive family, with a qualified relative or legal guardian, or in another planned permanent living arrangement, and to complete whatever steps are necessary to finalize the adoption or legal guardianship; and

"(E) reasonable efforts of the type described in subparagraph (D) may be made concurrently with reasonable efforts of the type described in subparagraph (B)."

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

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

(1) in section 422(b)(10)(B) (as redesignated by section 5592(a)(1)(A)(iii) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 644))—

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

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

(2) in section 475—

(A) in paragraph (1)—

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

(ii) in subparagraph (B)—

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

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

(B) in paragraph (5)—

(i) in subparagraph (A), in the matter preceding clause (1), by inserting "a safe setting that is" after "placement in"; and

(ii) in subparagraph (B)—

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

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

SEC. 103. MULTIDISCIPLINARY/MULTIAGENCY CHILD DEATH REVIEW TEAMS.

(a) STATE CHILD DEATH REVIEW TEAMS.—Section 471 of the Social Security Act (42 U.S.C. 671) is amended by adding at the end the following:

"(c)(1) In order to investigate and prevent child death from fatal abuse and neglect, not later than 2 years after the date of the enactment of this subsection, a State, in order to be eligible for payments under this part, shall submit to the Secretary a certification that the State has established and is maintaining, in accordance with applicable confidentiality laws, a State child death review team, and if necessary in order to cover all counties in the State, child death review teams on the regional or local level, that shall review child deaths, including deaths in which—

"(A) there is a record of a prior report of child abuse or neglect or there is reason to

suspect that the child death was caused by, or related to, child abuse or neglect; or

"(B) the child who died was a ward of the State or was otherwise known to the State or local child welfare service agency.

"(2) A child death review team established in accordance with this subsection should have a membership that will present a range of viewpoints that are independent from any specific agency, and shall include representatives from, at a minimum, specific fields of expertise, such as law enforcement, health, mental health, and substance abuse, and from the community.

"(3) A State child death review team shall—

"(A) provide support to a regional or local child death review team;

"(B) make public an annual summary of case findings;

"(C) provide recommendations for system-wide improvements in services to investigate and prevent future fatal abuse and neglect; and

"(D) if the State child death review team covers all counties in the State on its own, carry out the duties of a regional or local child death review team described in paragraph (4).

"(4) A regional or local child death review team shall—

"(A) conduct individual case reviews;

"(B) recommend followup procedures for child death cases; and

"(C) suggest and assist with system improvements in services to investigate and prevent future fatal abuse and neglect."

(b) FEDERAL CHILD DEATH REVIEW TEAM.—Section 471 of the Social Security Act (42 U.S.C. 671), as amended by subsection (a), is amended by adding at the end the following:

"(d)(1) The Secretary shall establish a Federal child death review team that shall consist of at least the following:

"(A) Representatives of the following Federal agencies who have expertise in the prevention or treatment of child abuse and neglect:

"(i) Department of Health and Human Services.

"(ii) Department of Justice.

"(iii) Bureau of Indian Affairs.

"(iv) Department of Defense.

"(v) Bureau of the Census.

"(B) Representatives of national child-serving organizations who have expertise in the prevention or treatment of child abuse and neglect and that, at a minimum, represent the health, child welfare, social services, and law enforcement fields.

"(2) The Federal child death review team established under this subsection shall—

"(A) review reports of child deaths on military installations and other Federal lands, and coordinate with Indian tribal organizations in the review of child deaths on Indian reservations;

"(B) upon request, provide guidance and technical assistance to States and localities seeking to initiate or improve child death review teams and to prevent child fatalities; and

"(C) develop recommendations on related policy and procedural issues for Congress, relevant Federal agencies, and States and localities for the purpose of preventing child fatalities."

SEC. 104. STATES REQUIRED TO INITIATE OR JOIN PROCEEDINGS TO TERMINATE PARENTAL RIGHTS FOR CERTAIN CHILDREN IN FOSTER CARE.

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

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

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

(3) by adding at the end the following:

"(E) in the case of a child who has been in foster care under the responsibility of the State for 12 of the most recent 18 months, or for a lifetime total of 24 months, or, if a court of competent jurisdiction has determined an infant to have been abandoned (as defined under State law), or made a determination that the parent has committed murder of another child of such parent, committed voluntary manslaughter of another child of such parent, aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter, or committed a felony assault that results in serious bodily injury to the surviving child or to another child of such parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

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

"(ii) a State court or State agency has documented a compelling reason for determining that filing such a petition would not be in the best interests of the child."

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

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

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

(3) by adding at the end the following:

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

"(i) the first time the child is removed from the home; or

"(ii) the date of the first judicial hearing on removal of the child from the home."

(c) ELIMINATION OF UNNECESSARY COURT DELAYS.—

(1) ONE-YEAR STATUTE OF LIMITATIONS FOR APPEALS OF ORDERS TERMINATING PARENTAL RIGHTS.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 5591(b) of the Balanced Budget Act of 1997, is amended—

(A) by striking "and" at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting "; and"; and

(C) by adding at the end the following:

"(20) provides that an order terminating parental rights shall only be appealable during the 1-year period that begins on the date the order is issued."

(2) ONE-YEAR STATUTE OF LIMITATIONS FOR APPEALS OF ORDERS OF REMOVAL.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by subsection (a), is amended—

(A) in paragraph (19), by striking "and" at the end;

(B) in paragraph (20), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(21) provides that a court-ordered removal of a child shall only be appealable during the 1-year period that begins on the date the order is issued."

(d) RULE OF CONSTRUCTION.—Nothing in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating or finalizing the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to children entering foster care under the responsibility of the State after the date of enactment of this Act.

(2) TRANSITION RULE FOR CURRENT FOSTER CARE CHILDREN.—Subject to paragraph (3), with respect to any child in foster care under the responsibility of the State on or before the date of enactment of this Act, the amendments made by this section shall not apply to such child until the date that is 1 year after the date of enactment of this Act.

(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—The provisions of section 501(b) shall apply to the effective date of the amendments made by this section.

SEC. 106. NOTICE OF REVIEWS AND HEARINGS; OPPORTUNITY TO BE HEARD.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by section 104(b), is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following:

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

SEC. 106. USE OF THE FEDERAL PARENT LOCATOR SERVICE FOR CHILD WELFARE SERVICES.

Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a)(2)—

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

(B) in subparagraph (A)—

(i) by striking "or" at the end of clause (ii);

(ii) by striking the comma at the end of clause (iii) and inserting "; or"; and

(iii) by inserting after clause (iii) the following:

"(iv) who has or may have parental rights with respect to a child."; and

(2) in subsection (c)—

(A) by striking the period at the end of paragraph (3) and inserting "; and"; and

(B) by adding at the end the following:

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

SEC. 107. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS AND GROUP CARE STAFF.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 104(c)(2), is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by adding at the end the following:

"(22) provides procedures for criminal records checks and checks of a State's child abuse registry for any prospective foster parent or adoptive parent, and any employee of a residential child-care institution before the foster parent or adoptive parent, or the residential child-care institution may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are

to be made under the State plan under this part, including procedures requiring that—

"(A) in any case in which a criminal record check reveals a criminal conviction for child abuse or neglect, or spousal abuse, a criminal conviction for crimes against children, or a criminal conviction for a crime involving violence, including violent drug-related offenses, rape, sexual or other physical assault, battery, or homicide, approval shall not be granted, unless the individual provides substantial evidence to local law enforcement officials and the State child protection agency proving that there are extraordinary circumstances which demonstrate that approval should be granted; and

"(B) in any case in which a criminal record check reveals a criminal conviction for a felony or misdemeanor not involving violence, or a check of any State child abuse registry indicates that a substantiated report of abuse or neglect exists, final approval may be granted only after consideration of the nature of the offense or incident, the length of time that has elapsed since the commission of the offense or the occurrence of the incident, the individual's life experiences during the period since the commission of the offense or the occurrence of the incident, and any risk to the child."

SEC. 108. DEVELOPMENT OF STATE GUIDELINES TO ENSURE SAFE, QUALITY CARE TO CHILDREN IN OUT-OF-HOME PLACEMENTS.

Section 471(a)(10) of the Social Security Act (42 U.S.C. 671(a)(10)) is amended—

(1) by inserting "and guidelines" after "standards" each place it appears; and

(2) by inserting "ensuring quality services that protect the safety and health of children in foster care placements with non-profit and for-profit agencies," after "related to".

SEC. 109. DOCUMENTATION OF EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.

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

(1) in paragraph (1)—

(A) in the last sentence—

(i) by striking "the case plan must also include"; and

(ii) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

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

"(E) in the case of a child with respect to whom the State's goal is adoption or placement in another permanent home, documentation of the steps taken by the agency to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems"; and

(2) in paragraph (5)(B), by inserting "(including the requirement specified in paragraph (1)(E))" after "case plan".

TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 201. ADOPTION INCENTIVE PAYMENTS.

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

"SEC. 473A. ADOPTION INCENTIVE PAYMENTS.

"(a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary may make a grant to each State that is an incentive-eligible State for a fiscal year in an amount

equal to the adoption incentive payment payable to the State for the fiscal year under this section, which shall be payable in the immediately succeeding fiscal year.

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

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

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

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

"(4) the fiscal year is any of fiscal years 1998 through 2002.

"(c) DATA REQUIREMENTS.—

"(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2) for fiscal year 1997 (or, if later, the fiscal year that precedes the first fiscal year for which the State seeks a grant under this section) and for each succeeding fiscal year.

"(2) DETERMINATION OF NUMBERS OF ADOPTIONS.—

"(A) DETERMINATIONS BASED ON AFCARS DATA.—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1997 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State in May of the fiscal year and in November of the succeeding fiscal year, and approved by the Secretary by April 1 of the succeeding fiscal year.

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

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

"(d) ADOPTION INCENTIVE PAYMENT.—

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

"(A) \$2,000, multiplied by amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

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

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

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

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

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

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

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

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

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

"(3) BASE NUMBER OF FOSTER CHILD ADOPTIONS.—The term 'base number of foster child adoptions for a State' means, with respect to a fiscal year, the largest number of foster child adoptions in the State in fiscal year 1997 (or, if later, the first fiscal year for which the State has furnished to the Secretary the data described in subsection (c)(2)) or in any succeeding fiscal year preceding the fiscal year.

"(4) BASE NUMBER OF SPECIAL NEEDS ADOPTIONS.—The term 'base number of special needs adoptions for a State' means, with respect to a fiscal year, the largest number of special needs adoptions in the State in fiscal year 1997 (or, if later, the first fiscal year for which the State has furnished to the Secretary the data described in subsection (c)(2)) or in any succeeding fiscal year preceding the fiscal year.

"(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For grants under this section, there are authorized to be appropriated to the Secretary \$15,000,000 for each of fiscal years 1999 through 2003.

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

SEC. 202. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

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

"(i) prior to termination of parental rights and the initiation of adoption proceedings was in the care of a public or licensed private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the safety and welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

"(ii) has been determined by the State pursuant to subsection (c) to be a child with spe-

cial needs, which needs shall be considered by the State, together with the circumstances of the adopting parents, in determining the amount of any payments to be made to the adopting parents.

"(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) and is otherwise determined to be eligible for the receipt of adoption assistance payments, shall be eligible for adoption assistance payments under this part.

"(C) A child who meets the requirements of subparagraph (A) and who is otherwise determined to be eligible for the receipt of adoption assistance payments shall continue to be eligible for such payments in the event that the child's adoptive parent dies or the child's adoption is dissolved, and the child is placed with another family for adoption."

(b) EXCEPTION.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

"(i) would be considered a child with special needs under subsection (c);

"(ii) is not a citizen or resident of the United States; and

"(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph."

(c) REQUIREMENT FOR USE OF STATE SAVINGS.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)), as amended by subsection (b), is amended by adding at the end the following:

"(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2) on and after the effective date of the amendment to such paragraph made by section 202(a) of the Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act to provide to children or families any service (including post-adoption services) that may be provided under this part or part B."

SEC. 203. TECHNICAL ASSISTANCE.

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

(b) LIMITATIONS.—The technical assistance provided under subsection (a) shall support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and shall include the following:

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

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

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

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

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

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

(7) Development of programs to recruit adoptive parents.

204. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) **ELIMINATION OF GEOGRAPHIC BARRIERS TO INTERSTATE ADOPTION.**—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 106, is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

"(A) deny to any person the opportunity to become an applicant for custody of a child, licensure as a foster or adoptive parent, or for foster care maintenance payments or adoption assistance payments under this part on the basis of the geographic residence of the person or of the child involved; or

"(B) delay or deny the placement of a child for adoption, into foster care, or in the child's original home on the basis of the geographic residence of an adoptive or foster parent or of the child involved."

(b) **STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall appoint an advisory panel that shall—

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

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

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

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

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

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

(C) not later than 12 months after the final appointment to the advisory panel, submit to the Secretary the report described in paragraph (3).

(2) **COMPOSITION OF ADVISORY PANEL.**—In establishing the advisory panel required under paragraph (1), the Secretary shall appoint members from the general public who are individuals knowledgeable on adoption and foster care issues, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who, at a minimum, include the following:

(A) Adoptive and foster parents.

(B) Public and private child welfare agencies that place children in and out of home care.

(C) Family court judges.

(D) Adoption attorneys.

(E) An Administrator of the Interstate Compact on the Placement of Children and an Administrator of the Interstate Compact on Adoption and Medical Assistance.

(F) A representative cross-section of individuals from other organizations and individ-

uals with expertise or advocacy experience in adoption and foster care issues.

(3) **CONTENTS OF REPORT.**—The report required under paragraph (1)(C) shall include the results of the study conducted under subparagraphs (A) and (B) of paragraph (1) and recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

(4) **CONGRESS.**—The Secretary shall submit a copy of the report required under paragraph (1)(C) to the appropriate committees of Congress, and, if relevant, make recommendations for proposed legislation.

SEC. 205. FACILITATION OF VOLUNTARY MUTUAL REUNIONS BETWEEN ADOPTED ADULTS AND BIRTH PARENTS AND SIBLINGS.

The Secretary of Health and Human Services, at no net expense to the Federal Government, may use the facilities of the Department of Health and Human Services to facilitate the voluntary, mutually requested reunion of an adult adopted child who is 21 years of age or older with—

(1) any birth parent of the adult child; or

(2) any adult adopted sibling who is 21 years of age or older, of the adult child.

If all such persons involved in any such reunion have, on their own initiative, expressed a desire for a reunion and agree to keep confidential the name and location of the other birth parent of the adult adopted child and any other adult adopted sibling of the adult adopted child.

SEC. 206. ANNUAL REPORT ON STATE PERFORMANCE IN PROTECTING CHILDREN.

(a) **IN GENERAL.**—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"SEC. 479A. ANNUAL REPORT.

"(a) **IN GENERAL.**—The Secretary shall issue an annual report containing ratings of the performance of each State in protecting children who are placed in foster care, for adoption, or with a relative or guardian. The report shall include ratings on outcome measures for categories related to safety and permanence for children:

"(b) **OUTCOME MEASURES.**—

"(1) **IN GENERAL.**—The Secretary shall develop a set of outcome measures to be used in preparing the report.

"(2) **CATEGORIES.**—In developing the outcome measures, the Secretary shall develop measures that can track performance over time for the following categories:

"(A) The number of children placed annually for adoption, the number of placements of children with special needs, and the number of children placed permanently in a foster family home, with a relative, or with a guardian who is not a relative.

"(B) The number of children, including those with parental rights terminated, that annually leave foster care at the age of majority without having been adopted or placed with a guardian.

"(C) The median and mean length of stay of children in foster care, for children with parental rights terminated, and children for whom parental rights are retained by the biological or adoptive parent.

"(D) The median and mean length of time between a child having a plan of adoption and termination of parental rights, between the availability of a child for adoption and the placement of the child in an adoptive family, and between the placement of the child in such a family and the finalization of the adoption.

"(E) The number of deaths of children in foster care and other out-of-home care, including kinship care, resulting from substantiated child abuse and neglect.

"(F) The specific steps taken by the State to facilitate permanence for children.

"(3) **MEASURES.**—In developing the outcome measures, the Secretary shall use data from the Adoption and Foster Care Analysis and Reporting System established under section 479 to the maximum extent possible.

"(c) **RATING SYSTEM.**—The Secretary shall develop a system (including using State census data and poverty rates) to rate the performance of each State based on the outcome measures.

"(d) **INFORMATION.**—In order to receive funds under this part, a State shall annually provide to the Secretary such adoption, foster care, and guardianship information as the Secretary may determine to be necessary to issue the report for the State.

"(e) **PREPARATION AND ISSUANCE.**—On October 1, 1998, and annually thereafter, the Secretary shall prepare, submit to Congress, and issue to the States the report described in subsection (a). Each report shall rate the performance of a State on each outcome measure developed under subsection (b), include an explanation of the rating system developed under subsection (c) and the way in which scores are determined under the rating system, analyze high and low performances for the State, and make recommendations to the State for improvement."

(b) **CONFORMING AMENDMENTS.**—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 204(a), is amended—

(1) in paragraph (22), by striking "and" at the end;

(2) in paragraph (23), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(24) provides that the State shall annually provide to the Secretary the information required under section 479A."

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

SEC. 301. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9(a)) is amended by striking "10" and inserting "15".

SEC. 302. PERMANENCY PLANNING HEARINGS.

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

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

(2) by striking "no later than" and all that follows through "12 months" and inserting "not later than 12 months after the original placement (and not less frequently than every 6 months"; and

(3) by striking "future status of" and all that follows through "long term basis" and inserting "permanency plans for the child (including whether and, if applicable, when, the child will be returned to the parent, referred for termination of parental rights, placed for adoption, or referred for legal guardianship, or other planned permanent living arrangement)".

SEC. 303. KINSHIP CARE.

(a) **REPORT.**—

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

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

(B) not later than November 1, 1998, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall—

(i) be based on the comments submitted by the advisory panel pursuant to subsection

(b)(2) and other information and considerations; and

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

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

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

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

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

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

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

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

(vi) the goal for a permanent living arrangement for the child and the actions being taken by the State to achieve the goal;

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

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

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

(b) ADVISORY PANEL REVIEW.—

(1) **IN GENERAL.**—The advisory board on child abuse and neglect established under section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102), or, if on the date of enactment of this Act such advisory board does not exist, the advisory panel authorized under paragraph (2), shall review the report prepared pursuant to subsection (a) and submit to the Secretary comments on the report not later than July 1, 1996.

(2) **AUTHORIZATION FOR APPOINTMENTS.**—Subject to paragraph (1), the Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, may appoint an advisory board for the purpose of reviewing and commenting on the report prepared pursuant to subsection (a). Such advisory board shall include parents, foster parents, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, representatives of tribal governments and tribal courts, judges, and academic experts.

SEC. 304. STANDBY GUARDIANSHIP.

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

(1) the death of the parent;

(2) the mental incapacity of the parent; or

(3) the physical debilitation and consent of the parent.

SEC. 305. CLARIFICATION OF ELIGIBLE POPULATION FOR INDEPENDENT LIVING SERVICES.

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

SEC. 306. COORDINATION AND COLLABORATION OF SUBSTANCE ABUSE TREATMENT AND CHILD PROTECTION SERVICES.

(a) **STUDY AND REPORT ON SOURCES OF SUPPORT FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT FOR PARENTS AND CHILDREN AND COLLABORATION AMONG STATE AGENCIES.**—

(1) **STUDY.**—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall—

(A) prepare an inventory of all Federal and State programs that may provide funds for substance abuse prevention and treatment services for families receiving services directly or through grants or contracts from public child welfare agencies; and

(B) examine—

(i) the availability and results of joint prevention and treatment activities conducted by State substance abuse prevention and treatment agencies and State child welfare agencies; and

(ii) how such agencies (jointly or separately) are responding to and addressing the needs of infants who are exposed to substance abuse.

(2) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the study conducted under paragraph (1). Such report shall include—

(A) a description of the extent to which clients of child welfare agencies have substance abuse treatment needs, the nature of those needs, and the extent to which those needs are being met;

(B) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(C) a description of the collaborative activities of State child welfare and substance abuse prevention and treatment agencies to jointly assess clients' needs, fund substance abuse prevention and treatment, train and consult with staff, and evaluate the effectiveness of programs serving clients in both agencies' caseloads;

(D) a summary of the available data on the treatment and cost-effectiveness of substance abuse treatment services for clients of child welfare agencies; and

(E) recommendations, including recommendations for Federal legislation, for addressing the needs and barriers, as described in subparagraphs (A) and (B), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

(b) **PRIORITY IN PROVIDING SUBSTANCE ABUSE TREATMENT.**—Section 1927 of the Public Health Service Act (42 U.S.C. 300c-27) is amended—

(1) in the heading, by inserting "AND CARETAKER PARENTS" after "WOMEN"; and

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "all caretaker parents who are referred for treatment by the State or local child welfare agency and who" after "referred for and"; and

(ii) by striking "is given" and inserting "are given"; and

(B) in paragraph (2)—

(i) by striking "such women" and inserting "such pregnant women and caretaker parents"; and

(ii) by striking "the women" and inserting "the pregnant women and caretaker parents".

(c) **FOSTER CARE PAYMENTS FOR CHILDREN WITH PARENTS IN RESIDENTIAL FACILITIES.**—

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(3) placed with the child's parent in a residential program that provides treatment and other necessary services for parents and children, including: parenting services, when—

"(A) the parent is attempting to overcome—

"(i) a substance abuse problem and is complying with an approved treatment plan;

"(ii) being a victim of domestic violence;

"(iii) homelessness;

"(iv) special needs resulting from being a teenage parent; or

"(v) post-partum depression;

"(B) the safety of the child can be assured;

"(C) the range of services provided by the program is designed to appropriately address the needs of the parent and child;

"(D) the goal of the case plan for the child is to try to reunify the child with the family within a specified period of time;

"(E) the parent described in subparagraph (A)(i) has not previously been treated in a residential program serving parents and their children together; and

"(F) the amount of foster care maintenance payments made to the residential program on behalf of such child do not exceed the amount of such payments that would otherwise be made on behalf of the child."

SEC. 307. REAUTHORIZATION AND EXPANSION OF FAMILY PRESERVATION AND SUPPORT SERVICES.

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

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

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

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

(C) by adding at the end the following:

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

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

"(8) for fiscal year 2001, \$315,000,000;

"(9) for fiscal year 2002, \$335,000,000; and

"(10) for fiscal year 2003, \$355,000,000."

(2) **CONFORMING AMENDMENT.**—Section 430(d)(1) of the Social Security Act (42 U.S.C. 630(d)(1)) is amended by striking "and 1998" and inserting "1998, 1999, 2000, 2001, 2002, and 2003".

(b) **EXPANSION FOR TIME-LIMITED FAMILY REUNIFICATION SERVICES.**—

(1) **ADDITION TO STATE PLAN; MINIMUM SPENDING REQUIREMENT.**—Section 432 of the Social Security Act (42 U.S.C. 629b) is amended—

(A) in subsection (a)—

(i) in paragraph (4), by striking "and community-based family support services with significant portions" and inserting "community-based family support services, and time-limited family reunification services, with not less than 25 percent"; and

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

(B) in subsection (b)(1), by striking "and family support" and inserting "family support, and family reunification services".

(2) **DEFINITION OF TIME-LIMITED FAMILY REUNIFICATION SERVICES.**—Section 431(a) of the Social Security Act (42 U.S.C. 631(a)) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) TIME-LIMITED FAMILY REUNIFICATION SERVICES.—

"(A) IN GENERAL.—The term 'time-limited family reunification services' means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 1-year period that begins on the date that the child is removed from the child's home.

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

- "(i) Individual, group, and family counseling.**
- "(ii) Inpatient, residential, or outpatient substance abuse treatment services.**
- "(iii) Mental health services.**
- "(iv) Assistance to address domestic violence.**
- "(v) Transportation to or from any of the services and activities described in this subparagraph."**

(3) ADDITIONAL CONFORMING AMENDMENTS.—

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

(B) EVALUATIONS.—Subparagraphs (B) and (C) of section 435(a)(2) of the Social Security Act (42 U.S.C. 629d(a)(2)) are each amended by striking "and family support" each place it appears and inserting "family support, family reunification".

308. INNOVATION GRANTS TO REDUCE BACKLOGS OF CHILDREN AWAITING ADOPTION AND FOR OTHER PURPOSES.

Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

"SEC. 478. INNOVATION GRANTS.

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants, in amounts determined by the Secretary, to States with approved applications described in subsection (c), for the purpose of carrying out the innovation projects described in subsection (b).

"(b) INNOVATION PROJECTS DESCRIBED.—The innovation projects described in this subsection are projects that are designed to achieve 1 or more of the following goals:

- "(1) Reducing a backlog of children in long-term foster care or awaiting adoption placement.**
- "(2) Ensuring, not later than 1 year after a child enters foster care, a permanent placement for the child.**
- "(3) Identifying and addressing barriers that result in delays to permanent placements for children in foster care, including inadequate representation of child welfare agencies in termination of parental rights and adoption proceedings, and other barriers to termination of parental rights.**
- "(4) Implementing or expanding community-based permanency initiatives, particularly in communities where families reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.**
- "(5) Developing and implementing community-based child protection activities that involve partnerships among State and local governments, multiple child-serving agencies, the schools, and community leaders in an attempt to keep children free from abuse and neglect.**

"(6) Establishing new partnerships with businesses and religious organizations to promote safety and permanence for children.

"(7) Assisting in the development and implementation of the State guidelines described in section 471(a)(10).

"(8) Developing new staffing approaches to allow the resources of several States to be used to conduct recruitment, placement, adoption, and post-adoption services on a regional basis.

"(9) Any other goal that the Secretary specifies by regulation.

"(c) APPLICATION.—An application for a grant under this section may be submitted for fiscal year 1998 or 1999 and shall contain—

- "(1) a plan, in such form and manner as the Secretary may prescribe, for an innovation project described in subsection (b) that will be implemented by the State for a period of not more than 5 consecutive fiscal years, beginning with fiscal year 1998 or 1999, as applicable;**
- "(2) an assurance that no waivers from provisions in law, as in effect at the time of the submission of the application, are required to implement the innovation project; and**
- "(3) such other information as the Secretary may require by regulation.**

"(d) DURATION.—An innovation project approved under this section shall be conducted for not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of the period originally approved if the Secretary determines that the State conducting the project is not in compliance with the terms of the plan and application approved by the Secretary under this section.

"(e) MATCHING REQUIREMENT.—A State shall not receive a grant under this section unless, for each year for which a grant is awarded, the State agrees to match the grant with \$1 for every \$3 received.

"(f) NONSUPPLANTING.—Any funds received by a State under a grant made under this section shall supplement but not replace any other funds that may be available for the same purpose in the localities involved.

"(g) EVALUATIONS AND REPORTS.—

"(1) STATE EVALUATIONS.—Each State administering an innovation project under this section shall—

- "(A) provide for ongoing and retrospective evaluation of the project, meeting such conditions and standards as the Secretary may require; and**
- "(B) submit to the Secretary such reports, at such times, in such format, and containing such information as the Secretary may require.**

"(2) REPORTS TO CONGRESS.—The Secretary shall, on the basis of reports received from States administering projects under this section, submit interim reports, and, not later than 6 months after the conclusion of all projects administered under this section, a final report to Congress. A report submitted under this subparagraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

"(h) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate final regulations for implementing this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

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"(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(q) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(r) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

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"(t) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(u) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(v) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(w) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(x) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(y) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

"(z) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this section not more than \$50,000,000 for each of fiscal years 1998 through 2003."

appropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

SEC. 402. REPORTING REQUIREMENTS.

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

SEC. 403. REPORT ON FIDUCIARY OBLIGATIONS OF STATE AGENCIES RECEIVING SSI PAYMENTS.

Not later than 12 months after the date of enactment of this Act, the Commissioner of Social Security shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning State or local child welfare service agencies that act as representative payees on behalf of children under the care of such agencies for purposes of receiving supplemental security income payments under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66) for the benefit of such children. Such report shall include an examination of the extent to which such agencies—

- (1) have complied with the fiduciary responsibilities attendant to acting as a representative payee under title XVI of such Act; and**
- (2) have received supplemental security income payments on behalf of children that the agencies cannot identify or locate, and if so, the disposition of such payments.**

SEC. 404. ALLOCATION OF ADMINISTRATIVE COSTS OF DETERMINING ELIGIBILITY FOR MEDICAID AND TANF.

(a) MEDICAID.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

- (1) in subsection (a)(7), by striking "section 1919(g)(3)(B)" and inserting "subsection (x) and section 1919(g)(3)(C)"; and**
- (2) by adding at the end the following:**

"(x)(1) Notwithstanding any other provision of law, for purposes of determining the amount to be paid to a State under subsection (a)(7) for quarters in any fiscal year, beginning with fiscal year 1997, amounts expended for the proper and efficient administration of the State plan under this title (including under any waiver of such plan) shall not include common costs related to determining the eligibility under such State plan (or waiver) of individuals in a household applying for or receiving benefits under the State program under part A of title IV unless the State elects the option described in paragraph (2).

"(2) A State that meets the requirements of paragraph (3) may elect to allocate equally between the State program under part A of title IV and the State plan under this title (including any waiver of such plan) the administrative costs associated with such programs that are incurred in serving households and individuals eligible or applying for benefits under the State program under part A of title IV and under the State plan (or under a waiver of such plan) under this title.

TITLE IV—MISCELLANEOUS

SEC. 401. PRESERVATION OF REASONABLE PARENTING.

Nothing in this Act is intended to disrupt the family unnecessarily or to intrude inap-

"(3) A State meets the requirements of this paragraph if the Secretary determines that—

"(A) the State conforms the eligibility rules and procedures of, and integrates the administration of the eligibility procedures of, the State program funded under part A of title IV and the State plan under this title (including any waiver of such plan); and

"(B) the State uses the same application form for assistance described in section 1931(e)."

(b) TANF.—

(1) IN GENERAL.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) DESIGNATION OF GRANTS UNDER THIS PART IN ALLOCATING ADMINISTRATIVE COSTS.—Subject to section 1903(x), a State to which a grant is made under section 403 shall designate the program funded under this part as the primary program for the purpose of allocating common administrative costs incurred in serving households eligible or applying for benefits under such program and any other Federal means-tested public benefit program administered by the State."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) to section 408 of the Social Security Act (42 U.S.C. 608) shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 1997.

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

Mr. CRAIG. Mr. President, I am pleased to join my distinguished colleagues in introducing PASS, the Promotion of Adoption, Safety and Support for Abused and Neglected Children Act.

Foster care was never intended to be anything more than a temporary refuge for children from troubled families. Yet all too often, "temporary" becomes "permanent," and decisions made for children in the system are driven by considerations other than the child's own well-being. Tragically, it's the children who ultimately pay for the flaws in the system—sometimes with their very lives.

The problem does not lie with the vast majority of foster parents, relatives, and caseworkers who work valiantly to provide the care needed by these children. Rather, the problem is the system itself, and incentives built into it, that frustrate the goal of mov-

ing children to permanent, safe, loving homes.

PASS will fundamentally shift the foster care paradigm, without destroying what is good and necessary in the system. For the first time, a child's health and safety will have to be the paramount concerns in any decisions made by the State. For the first time, efforts to find an adoptive or other permanent home will not only be required but documented and rewarded. For the first time, steps will have to be taken to free a child for adoption or other permanent placement if the child has been languishing in foster care for a year or more.

These are only some of the many critical reforms in Pass, designed to promote adoption, ensure the safety of abused and neglected children, accelerate permanent placement, and fix flaws in the system. The package, taken as a whole, will make an enormous difference in the lives of thousands of children.

This comprehensive bill is the product of extensive discussion and negotiation among Senators representing a veritable universe of viewpoints on adoption and foster care reform. Although we may have come to the table from different perspectives, we agreed on a fundamental principle: that reforms are needed to ensure that a child's health, safety and permanency are paramount concerns of the foster care system. In the end, on behalf of the children, we came together and resolved our differences. PASS is the result, and I commend it to all our colleagues.

Change is needed now; every day of delay is an eternity to a child unfairly bearing the burdens of the current system. I hope every Senator will take a careful look at PASS, and work with us to achieve true reforms in this area.

Mr. ROCKEFELLER. Mr. President, abused and neglected children are among the most vulnerable and poorly protected members of American society. Too many of these children are left to wander aimlessly through the foster care system—a system which, from the outset, was never designed or intended to be a permanent home. We can no longer continue to sentence these foster children to endless waits—a legal limbo in which they no longer feel welcome in their biological families but are unable to be adopted into new and loving homes. Despite the thousands of dedicated foster parents and child welfare workers who strive daily to effectively address the many needs of abused and neglected children in an overloaded system, we know that nothing can replace a permanent and loving home made by adults who can be counted on without condition or limitation.

Acknowledging our collective obligation to allow no child to fall between the cracks, I am proud to join together with Senator JOHN CHAFEE and my other colleagues in a truly extraordinary bipartisan effort to introduce

the Promotion of Adoption Safety and Support for Abused and Neglected Children Act [PASS]. Under Senator CHAFEE's committed leadership on children's issues, this bipartisan group has worked extremely hard to forge an effective compromise—a compromise which offers concrete, practical strategies to provide permanency in lives of foster children and to ensure that health and safety are built into every level of America's abuse and neglect system. Central to this entire effort was also Senator LARRY CRAIG, who brought focus and determination to the sometimes difficult bipartisan negotiations. I would like to take this opportunity to extend my most sincere thanks to my other colleagues, Senators JEFFORDS, DEWINE, COATS, BOND, LANDRIEU, and LEVIN for making possible this outstanding example of bipartisan teamwork.

The Promotion of Adoption Safety and Support for Abused and Neglected Children Act will fundamentally shift the focus of the foster care system by insisting that a child's health, safety, and opportunity to find a permanent home should be the paramount concern when a State makes any decision concerning the well-being of abused and neglected children. As a comprehensive package based on bipartisan consensus, PASS will accelerate and improve the response to these concerns, promote safe adoptions, and restore safety and permanency to the lives of abused and neglected children.

The main objective of this bill is to move abused and neglected children into adoptive or other permanent homes and to do so more quickly and more safely than ever before. Right now, many foster care children are forced to wait years before being adopted—even in cases where loving families are ready and willing to adopt them. Some children lose their chance for adoption altogether. While PASS preserves the requirement to reunify families where appropriate, it does not require States to use reasonable efforts to reunify families that have been irreparably broken by abandonment, torture, physical abuse, sexual abuse, murder, manslaughter, and sexual assault. The PASS Act maintains the delicate balance in protecting the rights of parents and families while placing primary focus where it should be: on the health and safety of child.

PASS encourages adoptions by rewarding States financial incentives for facilitating adoption for all foster children—especially those with special needs which, sadly, make them more difficult to place. For those situations where children cannot go home again, PASS requires States to use reasonable efforts to place them into safe adoptive homes or into the permanent care of loving relatives. In addition, PASS cuts by one-third the time that an abused and neglected child must wait in order to be placed in such adoptive homes. In response to a candid and focused look at today's foster care crisis,

the bill also seeks to rescue children from the legal limbo of the current system by requiring States to take the necessary legal steps to free for adoption those children who have been forced to linger in the system for a year or more. PASS also prevents further abuse of children in the foster care system by requiring criminal records checks for all foster and adoptive parents. PASS is about helping the individual child but, equally as importantly, fixing the system.

It is always the right time to focus on the needs of children—especially those unfortunate enough to find themselves in the sometimes dysfunctional labyrinth of the abuse and neglect system. Unfortunately, however, reform has never been more necessary. President Clinton's "Adoption 2002 Report" found that there are currently half a million children in temporary foster care placements. One hundred thousand of those children should be adopted, but less than half of that number are legally eligible to become part of an adoptive family. In my home State of West Virginia alone, referrals to Child Protective Services are expected to rise to an all-time high of 17,000 this year. Foster care placements have jumped from 2,900 children in January 1997 to 3,113 children in January 1997. These staggering figures reveal a foster care crisis of unprecedented proportions.

PASS is the first step in a vital, ongoing effort to put children at the very top of our national agenda. It is time that we provide all children with their most profound wish: to live in a safe and loving home with caretakers who treat them with respect and dignity. If we are unable to address this most fundamental need, these children will not be able to grow, learn, and provide a secure place for their own families. It is unthinkable to deny abused and neglected children such vital opportunities.

Mr. BOND. Mr. President, there may not be many things in life on which there is a consensus but I think we all can agree on the vital importance of ensuring the safety of abused and neglected children and moving them out of the foster care system more rapidly and into permanent homes. I am proud to join with my colleagues in this bipartisan effort to develop the new, consensus legislation called the Promotion of Adoption, Safety, and Support for Abused and Neglected Children [PASS] Act.

The reality is that all too often children simply languish in the foster care system. Nationwide, there are more than 500,000 children in foster care. In 1991, there are 10,361 children in the foster care system. Since 1975, the number of reported incidents of abuse and neglect has increased from less than 10,000 to 52,964 in 1995, an all-time high and frightening statistic.

Federal law has hindered State child welfare agencies from moving more quickly to place children who are in

foster care because of abuse and neglect into permanent homes.

The PASS Act will provide incentives to increase adoptions and reduce by one third the amount of time a child lingers in foster care waiting for a permanency plan, with a review required every six months so that foster care is truly viewed as a temporary care system for our most vulnerable children.

The bill clarifies "reasonable efforts" and establishes a federal standard so that the health and safety of the child is the primary concern, above family reunification interest. There are some parents for whom reunification with their children is not reasonable—certainly sustained abuse or neglect or danger of physical harm would fit that category. In those cases, we need to move swiftly to get the children out of harm's way and then quickly to get them into permanent homes.

Just count the number of cases of child abuse and neglect that has been reported over the past few months. One too many! A little, five-year old Kansas City girl named Angel Hart was beaten and drowned to death by her mother's boyfriend because she could not recite the alphabet.

Under the PASS Act, States are encouraged to enact laws that would make it easier to terminate parental rights in abusive cases and prevent abused and neglected children from returning to homes in which their health and safety are at risk. In addition, this legislation promotes adoption of all special needs children and ensures health coverage for special needs children who are adopted.

I am very optimistic that Congress will move this bill forward this year. There are far too many innocent lives at stake and no child should be denied a loving home. Unfortunately, for thousands of kids now caught in permanent limbo in the foster care system, that is exactly what is happening. The PASS Act will improve child safety and permanency, enabling some children to return home safely and others to move to adoptive families more quickly.

By Mr. MCCAIN (for himself, Mr. GORTON, Mr. HOLLINGS, and Mr. FORD):

S. 1196. A bill to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers; to the Committee on Commerce, Science, and Transportation.

THE FOREIGN AIR CARRIER FAMILY SUPPORT ACT

Mr. MCCAIN. Mr. President, I am pleased to join with my colleagues, Senator GORTON, Senator HOLLINGS and Senator FORD, to introduce the Foreign Air Carrier Family Support Act. This bill would require foreign air carriers to implement disaster family assistance plans should an accident involv-

ing their carriers occur on American soil. I would like to recognize my colleagues in the House, especially Representative UNDERWOOD from Guam, who introduced the companion bill in the House of Representatives earlier this week.

The legislation, if enacted, would build on the family assistance provisions that we enacted last year as part of the Federal Aviation Reauthorization Act of 1996. Let me be clear about one point. Domestic air carriers are already operating under the same legislative requirements set out in the legislation before us today.

The need for extending the requirements to foreign air carriers came into a clear focus with the tragic crash of Korean Air Flight 801 in Guam. I do not intend to single out Korean Air for blame. An accident of this magnitude, involving the loss of more than 200 lives, in rough and isolated terrain, is bound to create mass confusion and hysteria. Even so, coverage of the accident made us all acutely aware of the criticisms made by the family members, and the pain they suffered in relation to the search and rescue efforts, as well as the media involvement following the accident.

The U.S. civil, military and Federal personnel at the scene should be commended for their contributions toward the search and rescue efforts. I also praise their attempts to console and assist family members on Guam, as well as those who traveled to the accident site from South Korea and the continental United States. Without a doubt, though, their efforts would have been more productive had there been a prearranged plan in effect. Greater coordination would have made things easier not only for the victims' family members, but also for the National Transportation Safety Board [NTSB] officials and military personnel who were on-site and who had to respond immediately in an emotional and potentially hazardous situation.

The Foreign Air Carrier Family Support Act would require a foreign air carrier to provide the Secretary of Transportation and the Chairman of the NTSB with a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of that foreign air carrier, and that involves a significant loss of life. The Secretary of Transportation could not grant permission for the foreign air carrier to operate in the United States unless the Secretary had received a sufficient family assistance plan.

The family assistance plan required of the foreign air carrier would include a reliable, staffed toll-free number for the passengers' families, and a process for expedient family notification prior to public notice of the passengers' identities. An NTSB employee would serve as director of family support services, with the assistance of an independent nonprofit organization with experience in disasters and post-trauma communication with families. The foreign air

Jennifer Klein
Domestic Policy Office
The White House United States Senate

MEMORANDUM

9/22/97

Jennifer:

Barbara asked me to send this side-by-side over to you as soon as possible.

I know you are probably trying to get out from under after being out Thursday and Friday.

Once you have a chance to review the side-by-side, give me a call at (202) 224-7515. Again, we're happy to set up a briefing (in conjunction with HHS or no) walking you through the whole bill and giving you a process overview.

We're hoping for a quick passage of PASS, especially with the bipartisan sponsorship. Senator Rockefeller is anxious to do all he can to keep your office and Mrs. Clinton informed at every step of the process.

Look forward to speaking with you soon.

Mary Bissell
Heinz Senate Fellow



No. S-1195

Memorandum

September 19, 1997

SUBJECT : Comparison of Pending Adoption Proposals and Current Law

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

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

Bills included in the comparison are the:

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

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Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
I. "Reasonable Efforts" and Child Safety Provisions				
1. "Reasonable efforts" to preserve and reunify families	In every case, states must make "reasonable efforts" to avoid the need to remove a child from home, and to make it possible for a child to return home after placement in foster care — Sections 471(a)(15), 472(a)(1). Under CAPTA, no later than October 3, 1998, states must have provisions, procedures, and mechanisms in effect to assure that the state does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction to have killed or assaulted another of their children — Section 106(b)(2)(A)(xii) of CAPTA. States also must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental	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, sexual abuse); • a parent has killed or assaulted another of their children; or • a parent's rights to a sibling have been involuntarily terminated. In these cases, states would not be required to make reasonable efforts 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	States would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety; and to reunify families unless a court determines that reunification would endanger the child's health or safety, or in cases specified in state law, such as: • cases in which a court has found that a parent has killed or assaulted another of their children; or • cases in which a court has found that a parent has abandoned, tortured, chronically abused, or sexually abused the child. By October 3, 1999, states must enact and enforce laws that specify cases (such as those listed above) in which reunification efforts would not be required, and in which grounds exist for expedited termination of parental rights without efforts to reunify the family — Section 102.	States would be required to make reasonable efforts when possible, to preserve families when the child can be cared for at home without endangering the child's health or safety; or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent: • 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 their health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or previous involuntary termination of parental rights to a sibling); or • if the state has specified in legislation cases in which

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	rights) — Section 106(b)(2)(A)(xiii) of CAPTA.	to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 9) — Section 2.		reasonable efforts would not be required. Reasonable efforts to preserve or reunify families could be made concurrently with reasonable efforts to place a child for adoption, with a qualified relative or legal guardian, or in another planned, permanent arrangement (see item 9) — Section 101.
2. Consideration of child health and safety	No comparable provision in the Social Security Act. Under CAPTA, states must have provisions or procedures for reporting child abuse and neglect; for screening, assessing, and investigating such reports; and for ensuring and protecting the safety of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect and ensuring their placement in a safe environment — Section 106(b)(2)(A)(iii) of CAPTA.	In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern — Section 2.	In determining reasonable efforts, the child's health and safety must be the paramount concern — Section 102. In addition, current law would be amended to include references to child safety in provisions dealing with child welfare services, case plan and case review procedures — Sections 101(a) and 103.	Same as S. 511 — Sections 101 and 102.
3. Termination of parental rights	No comparable provision in the Social Security Act.	In the case of a child who is younger than 10 and has been	As stated in item 1, by October 3, 1999, states would	In the case of: • a child who has been in

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	Under CAPTA, as stated in item 2, states must (by October 3, 1998) have provisions to assure that they will not require reunification of a surviving child with a parent who the court finds has killed or assaulted another of their children; and after such provisions are in effect, the state must assure that conviction of such a felony will constitute grounds under state law for termination of parental rights to surviving children (although the state retains discretion to make case-by-case determinations of whether to seek termination of parental rights) — Section 106(b)(2)(A)(xii) and (xiii) of CAPTA. In addition, by October 3, 1998, states must have provisions, procedures, and mechanisms for expedited termination of parental rights in the case of infants determined to be abandoned under state law — Section 106(b)(2)(A)(xi)(I) of CAPTA.	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.	be required to enact and enforce laws specifying cases (such as where a court has found that a parent has killed or assaulted another of their children, or has abandoned, tortured, chronically abused, or sexually abused the child) where grounds exist for expedited termination of parental rights without first requiring family reunification efforts — Section 102.	foster care for 12 of the most recent 18 months; or • a child who has been in foster care for a lifetime total of 24 months; or • an infant who is determined by the court to have been abandoned (as defined under state law); or • a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children; states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless: • at the option of the state, the child is being cared for by a relative; or • a state court or agency has documented a compelling reason for determining that filing such a petition would

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
				not be in the best interests of the child — Section 104(a). A child would be considered as having entered foster care on the later of: • the first date that the child is removed from home; or • the date of the first judicial hearing on the child's removal — Section 104(b). Nothing in Title IV-E, as amended by this legislation, would be construed as precluding state courts or agencies from initiating or finalizing termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests — Section 104(d). In general, this provision would apply to children entering foster care after the date of enactment. For children in foster care on or before the date of enactment, this provision would not apply

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
				until 1 year after the date of enactment. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(e).
4. Limitations on Appeals	No provision.	No provision.	No provision.	States would be required to provide that orders terminating parental rights, and court-ordered child removals, would only be appealable during the 1-year period beginning on the date the order is issued. The provisions of the PASS Act, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item VII) — Section 104(c).
5. Child death review teams	No provision in the Social Security Act. Under CAPTA, states must designate at least 3 citizen review panels (small states must designate at least 1), which are representative of the local community. Existing entities such as foster care review boards or child death review teams may	No provision.	No later than 5 years after enactment, states would be required to certify that they have established and are maintaining a multidisciplinary state child death review team (and, if necessary, regional and local teams) to investigate child deaths, including those where there has been a prior report of abuse or neglect or there is reason to suspect that	Same as S. 511, except: • states would have to certify that they have established and are maintaining child death review teams no later than 2 years after enactment; • death review teams would not be required to investigate deaths resulting from suicide,

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	be designated if they can perform the required functions. These panels must examine policies and procedures of state and local agencies, and individual cases if appropriate, to determine if the agencies are operating in accordance with their state CAPTA plan, child protection standards, and any other criteria considered important by the panel, including a review of coordination between state child protection programs and foster care and adoption programs under the Social Security Act, and a review of child fatalities and near fatalities — Sections 106(b)(2)(A)(x) and 106(c) of CAPTA.		the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency, or the death was a suicide, or the cause of death was unexplained or unexpected. In addition, HHS would be required to establish a federal child death review team (with representatives from other federal agencies) to investigate deaths on federal lands, review the status of state and local teams, provide guidance and technical assistance, review state and local data to identify national trends in child deaths, and make recommendations to prevent child deaths — Section 104.	or cases in which the cause of death was unexplained or unexpected; responsibilities of the federal team would be limited to investigating deaths on federal lands, providing guidance and technical assistance to state and local teams upon request, and making recommendations to prevent child deaths — Section 103.
6. Criminal record checks	No provision.	At state option, states could provide (as a component of their Title IV-E plan) procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally	Same as H.R. 867, except the provision would be mandatory for states, rather than optional — Section 205.	Same as S. 511 (i.e., provision would be mandatory for states), except: S. 511 and H.R. 867 would require states to deny approval in certain cases where there has been a criminal conviction; however, the draft would allow states to

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
payments		Human Services (HHS) would be authorized to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in FY1997, or in a subsequent base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for each adoption of a foster child with special needs. For these incentive payments, \$15 million would be authorized for each of fiscal years 1999-2003. Relevant budget acts would be amended to require adjustments in discretionary spending limits — Section 4.		• adoption incentive payments would equal \$2,000 for each adoption of a foster child above the base number, and \$4,000 for each adoption of a foster child with special needs; • adjustments to discretionary spending limits would not be required — Section 201. Information required by the PASS Act would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 31).
9. “Reasonable Efforts” to place children for adoption or other permanent arrangement	No provision.	If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (or are no longer consistent with the child’s permanency goal), then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another	When a child’s permanency goal is adoption or another permanent placement, states would be required to make reasonable efforts to place the child in a timely manner for adoption, with a legal guardian, or in another planned, permanent arrangement, and to complete necessary steps to finalize the adoption or guardianship —	If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1, and placement with either parent would pose a serious risk to the child’s health or safety, or in any case when a child’s permanency goal is adoption or another permanent placement, then states would be required to make

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		information exchanges, including electronic exchange systems — Section 7.		
11. Eligibility for adoption assistance	Federally subsidized adoption assistance payments are made on behalf of children with special needs as defined by the state. Eligible children must have been eligible for Aid to Families with Dependent Children (AFDC) at the time adoption proceedings began (except that they had been removed from their family as a result of a voluntary agreement or judicial determination that remaining with the family would be contrary to their welfare), or must be eligible for Supplemental Security Income (SSI), or must be living in foster care with a minor parent who is eligible for foster care subsidies under Title IV-E. The amount of the adoption assistance payment made to an adoptive family is based on the needs of the child and the circumstances of the family, but may not exceed the foster care payment that the child would have been	No provision.	Federally subsidized payments would continue to be made on behalf of children with special needs as defined by the state. AFDC and SSI eligibility provisions would be deleted. Eligible children would be those who, prior to termination of parental rights and initiation of adoption proceedings, were in the care of a public or nonprofit agency or Indian tribe as a result of a voluntary agreement or judicial determination that remaining in the home would be contrary to their welfare, or were living in foster care with their minor parent. An otherwise eligible child who is not a U.S. citizen or resident would be eligible for assistance, except for children who were adopted outside the U.S. or brought to the U.S. to be adopted. An otherwise eligible child whose adoptive parent dies or whose adoption is disrupted would remain eligible for assistance — Section 303.	Same as S. 511, except: • reiterates current law requirement that the child's special needs, together with the circumstances of the adoptive parents, must be considered in determining the amount of any payment to be made to the adoptive parents; • states would be required to spend an amount equal to any savings resulting from this provision to provide services to children and families (including post-adoption services) that are allowable under Titles IV-B or IV-E; and • otherwise eligible children in the custody of for-profit agencies would be eligible for adoption assistance under Title IV-E — Section 202.

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	eligible to receive — Section 473(a)(2).			
12. Technical assistance to promote adoption	No provision in the Social Security Act. Under the Adoption Opportunities program, HHS is authorized to enter into grants and contracts with public and private nonprofit agencies for various activities intended to promote adoption, particularly for special needs children — Title II of the Child Abuse and Adoption Reform Act of 1978.	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.	No provision.	Same as H.R. 867, except: • would also authorize technical assistance for development of programs to recruit adoptive parents; and • no authorization of appropriations would be included — Section 203.

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
13. Interstate adoption	No provision.	No provision.	The Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of their appointment, including recommendations for improvements. The Secretary would forward the report to Congress, and, if relevant, make recommendations for legislation — Section 305.	Same as S. 511, except for minor modifications in membership of advisory panel — Section 204(b). In addition, states would be required to provide that neither the state nor any other entity in the state that receives federal funds would: • deny to any person the opportunity to become an applicant for child custody, licensure as a foster or adoptive parent, or foster care or adoption assistance under Title IV-E on the basis of geographic residence; or • delay or deny the placement of a child for adoption, into foster care, or in the child's original home on the basis of geographic residence — Section 204(a).
III. Foster Care Provisions				
14. Foster care case review system	The status of every child in foster care under state responsibility must be reviewed by a court or	States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of	Same as H.R. 867, except: • states also would be required to hold subsequent	Same as S. 511 — Section 302.

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

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

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		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.		protecting children, with the first report due on October 1, 1998. The Secretary would be required to develop outcome measures that could track state performance over time in the following categories: • 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. States would be required to provide information on adoption, foster care, and guardianship, as determined

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	Under CAPTA, HHS is authorized to enter into grants or contracts with public and private nonprofit entities for time-limited demonstration programs and projects for the following purposes: • training for professionals and paraprofessionals in various disciplines related to child abuse and neglect, improving use of volunteers, and establishing resource centers to provide information and training related to child abuse and neglect; • mutual support programs for families; • innovative projects that establish a triage system to respond to child abuse and neglect through partnerships among the state and community agencies; • kinship care projects (see item 19); and • supervised visitation		grants to states for innovation projects. States could submit applications in FY1998 or FY1999. Projects would last for 5 years, could not require waivers from federal law, would include evaluations, and would address the following goals: • reduce backlogs of children awaiting adoption; • ensure permanent placements within 1 year of foster care; • identify and address barriers to permanent placements; • implement community-based permanency initiatives and child protection activities that involve partnerships; • assist with state safety guidelines; • develop new staffing approaches — Section 401.	through FY2003, rather than provided as entitlement funding — Section 308.

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation — Section 13.	Substance Abuse Treatment. The report would be due within 12 months of enactment, and would be updated biennially. State substance abuse and child welfare agencies would be required to jointly prepare a report on joint activities, due to HHS within 12 months of enactment. Within 18 months of enactment HHS would report to Congress on substance abuse and child welfare issues, including recommendations for legislation — Section 201.	Comptroller General would be required to report to Congress within 18 months of enactment, describing: substance abuse needs of child welfare clients and the extent to which these needs are being met; barriers to substance abuse treatment faced by child welfare clients; collaborative state substance abuse and child welfare activities; available data on treatment and its effectiveness for child welfare clients; and recommendations for promoting collaboration among state substance abuse and child welfare agencies — Section 306(a).
22. Priority for substance abuse treatment	Pregnant women are given priority for substance abuse treatment under a federal substance abuse block grant — Section 1927 of the Public Health Service Act.	No provision.	The Public Health Service Act would be amended to provide that all caretaker parents who are referred for substance abuse treatment by a state or local child welfare agency would also be given priority for such services — Section 202.	Same as S. 511 — Section 306(b).
23. Foster care payments for children with parents in residential institutions	Federally subsidized foster care maintenance payments may be made on behalf of eligible children who are	No provision.	Federally subsidized foster care payments could also be made on behalf of eligible children who are placed with	Same as S. 511, except: the provision could also apply to a parent trying to overcome

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
	placed in a licensed foster family home, or a licensed child care institution — Section 472(b).		their parent in a residential program that provides services for parents and children, including parenting services, in cases where: • the parent is trying to overcome substance abuse, domestic violence, homelessness, or has special needs due to teenage parenthood; • the child's safety can be assured; • the program provides appropriate services for parent and child; • the child's permanency plan is family reunification within a specified period; and • the parent has not previously been treated in a residential program serving children and parents together — Section 203.	p o s t - p a r t u m depression; and • the amount of the foster care maintenance payment that would be made to the residential program on behalf of the child could not exceed the amount that would otherwise have been made on behalf of the child — Section 306(c).
VI. Additional Provisions				
24. Kinship care report	No provision.	The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the	No provision.	Same as H.R. 867, except, rather than convening a new advisory panel, the Secretary would be directed to use the Advisory Board on Child

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
		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.		Abuse and Neglect (ABCAN) authorized under CAPTA. If ABCAN did not exist, then the Secretary would convene an advisory panel as directed by this legislation — Section 303.

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

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

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

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

Provision	Current law	H.R. 867 (House-passed)	S. 511 (Introduced)	S. 1195 (Introduced)
				These amendments would take effect as if included in the welfare reform law of 1996 — Section 404.
VII. Effective Dates	Not applicable.	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.	October 1, 1997 — Section 501.	Same as H.R. 867, except for provisions dealing with termination of parental rights (see item 3) and allocation of administrative costs under TANF and other means-tested programs (see item 33).

September 23, 1997

MEMORANDUM

TO: Hillary Rodham Clinton
FROM: Nicole Rabner, Jennifer Klein
cc: Melanne Verveer
RE: Tomorrow's Meeting on Adoption

The purpose of tomorrow's meeting is to be briefed by HHS on the recently introduced Senate child welfare bill and explore Administration strategy. We participated with HHS in a briefing by key staff of Senators Rockefeller and Chafee on the PASS Act, and they expressed an eagerness to work with the Administration. Rockefeller and Chafee plan to hold a one-day Finance Committee hearing on the bill on October 8th, and hope that it goes directly to the floor for speedy passage. They urged our support.

As you know, the other important purpose of this meeting is to speed up what might otherwise be a lengthy Administration review.

Background

As you know, on Thursday, September 18, a bi-partisan group of Senators -- including Senators Rockefeller, Chafee, Craig, Jeffords, Dewine, Bond, Coats, Levin and Landrieu -- announced an agreement on child welfare legislation, called the Promotion of Adoption, Safety and Support for Abused and Neglected Children Act (PASS). The PASS Act represents the Senate version of the House adoption legislation which passed this past Spring, which the Administration endorsed. Through the Spring and Summer, Rockefeller had prevented speedy Senate consideration of the House bill, in order to work on more ambitious Senate legislation. The PASS Act incorporates many elements of the Administration's *Adoption 2002* initiative, including the principle of health and safety for children in foster care, financial incentives for states to meet adoption targets, clarification of the "reasonable efforts" standard, and shortened waiting times for children in foster care. The PASS Act also includes other measures, including judicial reforms and health coverage for special needs children who are adopted (effectively de-linking adoption assistance from IV-E eligibility).

Unlike the House bill, the Senate Act, as you know, has budget implications (roughly estimated at \$2.4 billion, although CBO has not yet scored the bill), paid for by savings from "cost-allocation" -- ensuring that states do not shift TANF administrative costs to other federal entitlement programs, such as Medicaid and food stamps. The Administration has been on record as supporting some version of cost allocation. As you might suspect, however, there are many competing causes trying to capture this pot of savings (for instance, Agriculture research spending). Rockefeller's argument is that if we are going use this savings for something, it should be for measures that re-invests in this same population.

Attached please find a one-page description of the PASS Act, the Congressional Research Service side-by-side of the introduced legislation from the House and Senate, and the PASS legislation, as introduced on 9/18/97, as well as the *Adoption 2002* report.

Meeting Participants

The First Lady
Melanne Verveer
Bruce Reed
Elena Kagan
Gene Sperling
Janet Murguia
Jennifer Klein
Nicole Rabner
OMB TBD

Donna Shalala
Olivia Golden
Rich Tarplan
Mary Burdette