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112TH CONGRESS
2D SESSION

H. R. 6128

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to prohibit a State, county, or other political subdivision of a State from filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2012

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to prohibit a State, county, or other political subdivision of a State from filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Help Separated Families Act of 2012''.

SEC. 2. IMMIGRATION STATUS ALONE NOT A DISQUALIFICATION FROM BEING A PLACEMENT FOR A FOSTER CHILD.

Section 471(a)(19) of the Social Security Act (42 U.S.C. 671(a)(19)) is amended—

(1) by striking ''(19) provides that the State'' and inserting the following:

''(19) provides that—

''(A) the State''; and

(2) by adding after and below the end the following:

''(B) such standards shall ensure that the immigration status alone of a parent, legal guardian, or relative shall not disqualify the parent, legal guardian, or relative from being a placement for a child;''.

SEC. 3. STATE PLAN REQUIREMENT TO ACCEPT CERTAIN DOCUMENTS ISSUED BY FOREIGN ENTITIES AS SUFFICIENT IDENTIFICATION FOR PURPOSES OF INITIATING A CRIMINAL RECORDS CHECK OR A FINGERPRINT-BASED CHECK.

Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(1) in subparagraph (A), by inserting ''which procedures shall require the State (including the State agency, the child welfare agency of any county or other political subdivision of the State, and caseworkers and supervisors of any such agency) to accept a foreign consulate identification card, a foreign passport, or such other foreign identification document as may be allowed in regulations prescribed by the Secretary, as sufficient identification for purposes of initiating a criminal records check or a fingerprint-based check,'' before ''including procedures''; and

(2) in subparagraph (C), by inserting '', which procedures shall require the State (including the State agency, the child welfare agency of any county or other political subdivision of the State, and caseworkers and supervisors of any such agency) to accept a foreign consulate identification card, a foreign passport, or such other foreign identification docu-

ment as may be allowed in regulations prescribed by the Secretary, as sufficient identification for purposes of initiating a criminal records check or a fingerprint-based check'' before the semicolon.

SEC. 4. STATE CHILD WELFARE AGENCIES ENCOURAGED TO GRANT WAIVERS OF REQUIREMENTS THAT WOULD PREVENT A CHILD FROM BEING PLACED WITH A RELATIVE ON THE BASIS OF A MINOR LEGAL INFRACTION BY THE RELATIVE.

It is the sense of the Congress that the child welfare agency of a State, or of any county or other political subdivision of a State, should grant a waiver of any requirement which would prevent the placement of a child with a relative of the child, on the basis of a minor legal infraction, if the relative would otherwise be considered eligible for such a placement.

SEC. 5. STATE PLAN REQUIREMENT TO NOTIFY RELATIVES SEEKING PLACEMENT OF A CHILD THAT THEIR IMMIGRATION STATUS WILL NOT BE QUESTIONED.

Section 471(a)(29) of the Social Security Act (42 U.S.C. 671(a)(29)) is amended—

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

(2) by adding ''and'' at the end of subparagraph (D); and

(3) by adding at the end the following:

''(E) the immigration status of any such relative seeking placement of the child with the relative shall not be questioned, except to the extent necessary in determining eligibility for relevant services or programs;''.

SEC. 6. PROHIBITION ON STATE FILING FOR TERMINATION OF PARENTAL RIGHTS IN FOSTER CARE CASES IN WHICH OTHERWISE FIT AND WILLING PARENT OR RELATIVE HAS BEEN DEPORTED OR IS INVOLVED IN AN IMMIGRATION PROCEEDING, UNLESS CERTAIN CONDITIONS HAVE BEEN MET.

Section 475(5)(E) of the Social Security Act (42 U.S.C. 675(5)(E)) is amended by adding after and below the end the following flush text:

''except that the State, and a county or other political subdivision of the State, shall not file (or join in the filing of such a petition) based on the removal of the parent from the United States or the involvement of the parent in (including detention pursuant to) an immigration proceeding, unless (I) the State (or the county or other political subdivision of the

State, as the case may be) has made reasonable efforts to identify, locate, and contact any parent of the child, who has been removed from the United States, and any adult relative of the child, referred to in section 471(a)(29), including through the diplomatic or consular offices of the country to which the parent was removed, to notify such a parent or relative of the intent of the State (or the county or other political subdivision of the State, as the case may be) to file (or join in the filing of) such a petition, and to reunify the child with any such parent or relative; or (II) the parent is unfit or unwilling to be a parent of the child;''.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning on or after the date of the enactment of this Act, and shall apply to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan approved under part E of title IV of the Social Security

Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, if the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

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