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113TH CONGRESS
1ST SESSION

H. R. 2604

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 authorize discretion to a State, county, or other political subdivision of a State to delay 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

JUNE 28, 2013

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 authorize discretion to a State, county, or other political subdivision of a State to delay 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 2013''.

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 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. 5. AUTHORIZE STATE DISCRETION TO DELAY FILING FOR TERMINATION OF PARENTAL RIGHTS IN FOSTER CARE CASES IN WHICH OTHERWISE FIT AND WILLING PARENT OR RELATIVE HAS BEEN REMOVED 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 striking ''; or'' and inserting the following: ''and a compelling reason in section 475(5)(E) for the State to not file (or join in the filing of such a petition) shall include the removal of the parent from the United States or the involvement of the parent in (including detention pursuant to) an immigration proceeding, unless the parent is unfit or unwilling to be a parent of the child. Before a State may file to terminate the parental rights under such section 475(5)(E), the State (or the county or other political subdivision of the State, as the case may be) shall make reasonable efforts—''

''(I) to identify, locate, and contact (including, if appropriate, through the diplomatic or consular offices of the country to which the parent was removed or a parent or relative resides) any parent of the child,

who has been removed from the United States, and where possible, any potential adult relative of the child (as described in section 471(a)(29));

''(II) to notify such a parent or relative of the intent of the State (or the county or other political subdivision of the State, as applicable) to file (or join in the filing of) such a petition;

''(III) to reunify the child with any such parent or relative; and

''(IV) provide and document appropriate services to the parent or relative; or''.

SEC. 6. REQUIREMENT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE GUIDANCE ON BEST PRACTICES FOR ESTABLISHING MEMORANDUM OF UNDERSTANDING OR AGREEMENTS WITH FOREIGN CONSULATES IN JUVENILE COURT CASES INVOLVING IMMIGRANT CHILDREN OR CHILDREN OF IMMIGRANTS IN FOSTER CARE AND FOR OTHER PURPOSES.

The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, the Secretary of State, and immigration, international law, and child welfare experts, shall develop and disseminate to State, county, and local child welfare agencies best practice guidance that takes into account the best interest of the child, including a preference for family unity whenever appropriate, on the following:

(1) Establishing memoranda of understanding or agreements with foreign consulates in juvenile and family court cases, including procedures for contacting a consulate and protections affording foreign nationals the right to refuse contact with, or the sharing of personal or identifying information with, the government of their country of origin.

(2) Facilitating collection of children's necessary legal documents prior to reunification with a

parent, legal guardian, or relative caregiver abroad, including but not limited to passports and apostilled birth certificates, health, and school records.

(3) Locating and notifying a detained parent, legal guardian, or appropriate relative caregiver, and assisting in family reunification efforts prior to or after a parent's removal.

(4) Aiding the safe transfer of a child to the parent's, legal guardian's, or relative caregiver's country of residence.

(5) Communicating with relevant departments and service providers in a parent's, legal guardian's, or relative caregiver's country of origin to arrange necessary placement and reunification services, including but not limited to home studies, background checks, and collection of necessary legal documents.

(6) Assisting a detained or deported parent, legal guardian, or relative caregiver in meeting child welfare case plan requirements, facilitating their participation in family court hearings, and arranging supervised visitations within the United States, abroad, and at border facilities when appropriate.

SEC. 7. CHILD WELFARE SERVICES FOR CHILDREN SEPARATED FROM PARENTS DETAINED OR REMOVED FROM THE UNITED STATES FOR IMMIGRATION VIOLATIONS.

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

(1) by striking ''and'' at the end of paragraph (32);

(2) by striking the period at the end of paragraph (33) and inserting ''; and''; and

(3) by adding at the end the following:

''(34) provides that the State shall—

''(A) ensure that the case manager for a separated child is capable of communicating in the native language of such child and of the family of such child, or an interpreter who is so capable is provided to communicate with such child and the family of such child at no cost to the child or the family of such child;

''(B) coordinate with the Department of Homeland Security to make every effort to ensure that parents who wish for their child to accompany them to their country of origin are given adequate time and assistance to obtain a passport and visa, and to collect all relevant

vital documents such as birth certificate, health, and educational records, and other information;

"(C) preserve, to the greatest extent possible, the privacy and confidentiality of all information gathered in the course of administering the care, custody, and placement of, and follow-up services provided to, a separated child, consistent with the best interest of such child, by not disclosing such information to other government agencies or persons (other than a parent, legal guardian, or relative caregiver or such child), except that the head of the State agency (or the county or other political subdivision of the State, as applicable) may disclose such information, after placing a written record of the disclosure in the file of the child—

"(i) to a consular official for the purpose of reunification of a child with a parent, legal guardian, or relative caregiver who has been removed or is involved in an immigration proceeding, unless the child has refused contact with, or the sharing of personal or identifying information with, the government of their country of origin;

"(ii) when authorized to do so by the child (if the child has attained 18 years of age) if the disclosure is consistent with the best interest of the child; or

"(iii) to a law enforcement agency if the disclosure would prevent imminent and serious harm to another individual; and

"(D) not less frequently than annually, compile, update, and publish a list of entities in the State that are qualified to provide legal representation services for a separated child, in a language such that a child can read and understand.".

(b) ADDITIONAL INFORMATION TO BE INCLUDED IN CASE PLAN.—Section 475(1) of such Act (42 U.S.C. 675(1)) is amended by adding at the end the following:

"(H) In the case of a separated child with respect to whom the State plan requires the State to provide services pursuant to section 16 471(a)(34)—

"(i) the location of the parent or legal guardian referred to in paragraph (9)(A) of this subsection from whom the child has been separated; and

"(ii) a written record of each disclosure to a government agency or person (other than such a parent or legal guardian) of information gathered in the course of tracking the care, custody, and placement of, and follow-up services provided to, the child.".

(c) SEPARATED CHILD DEFINED.—Section 475 of such Act (42 U.S.C. 675) is amended by adding at the end the following:

"(9) The term 'separated child' means an individual who—

"(A) has a parent or legal guardian who has been detained by a Federal, State, or local law enforcement agency in the enforcement of an immigration law, or removed from the United States as a result of a violation of such a law; and

"(B) is in the care or supervision of a State.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter that begins after the 1-year period that begins with the date of the enactment of this Act.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the first day of the first 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 first day of the first calendar quarter beginning after the first 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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