

HEARING ON THE IMPLEMENTATION OF  
THE FOSTERING CONNECTIONS TO SUCCESS  
AND INCREASING ADOPTIONS ACT

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON INCOME SECURITY AND  
FAMILY SUPPORT  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 15, 2009

**Serial No. 111-30**

Printed for the use of the Committee on Ways and Means



U.S. GOVERNMENT PRINTING OFFICE

53-733

WASHINGTON : 2010

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**HEARING ON THE IMPLEMENTATION OF  
THE FOSTERING CONNECTIONS TO SUCCESS  
AND INCREASING ADOPTIONS ACT**

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**TUESDAY, SEPTEMBER 15, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON INCOME SECURITY  
AND FAMILY SUPPORT,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 1:00 p.m., in Room B-318, Rayburn House Office Building, the Honorable Jim McDermott [chairman of the subcommittee] presiding.

[The advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

FOR IMMEDIATE RELEASE  
September 08, 2009  
ISFS-4

CONTACT: (202) 225-1721

### **McDermott Announces Hearing on the Implementation of the Fostering Connections to Success and Increasing Adoptions Act**

Congressman Jim McDermott (D-WA), Chairman of the Subcommittee on Income Security and Family Support of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing to review the implementation of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). **The hearing will take place on Tuesday, September 15, 2009, at 1:00 p.m. in B-318 Rayburn House Office Building.** In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled to appear may submit a written statement for consideration by the Subcommittee and for inclusion in the record of the hearing.

#### **BACKGROUND:**

Last September, Congress passed the bipartisan Fostering Connections to Success and Increasing Adoptions Act to provide for the most significant changes in child welfare policy in over a decade. The new law includes specific requirements aimed at improving the oversight of foster kids' health care needs, educational stability, and connection to family members. It provides additional Federal assistance to support caseworker training, to directly assist children in tribal foster care, and to promote policies that provide support and incentives for adopting children out of the foster care system. Finally, the law establishes two new important options for States to improve outcomes for children in foster care: (1) Federal matching payments for States choosing to provide assistance to grandparents and other relatives who become legal guardians of foster children; and (2) Federal matching payments for States choosing to continue foster care assistance up to the age of 21 for youth engaged in school, work, or other constructive activities.

In announcing the hearing, Chairman McDermott stated, **"Our action last fall to improve the child welfare system represented a bipartisan, bicameral commitment to work together to significantly improve the lives of our most vulnerable children. But our work is not done. We need to both ensure a successful implementation of this new law and continue to work to improve other aspects of the system in need of reform."**

#### **FOCUS OF THE HEARING:**

The hearing will focus on the implementation of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

**Please Note:** Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Committee Hearings". Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, complete all informational forms and click "submit" on the final page. **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Tuesday, September 29, 2009**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

**FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and **MUST NOT** exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

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Chairman MCDERMOTT. The meeting will come to order.

A year ago, Congress passed the "Fostering Connections to Success and Increasing Adoptions Act." The basic premise of the law is that foster children need the same things to succeed that all children need: a safe home, caring family, good education, and access to health care. And yet, the foster care system too often unnecessarily disrupts connections to family and home and school, whether it is expecting foster kids to go it alone at age 18 or denying assistance to grandparents who become legal guardians or unnecessarily displacing kids from their schools or separating them from their siblings. Now, the result is to sever and to reduce the links that foster children need to successfully navigate their way to adult-

hood. With the Fostering Connections Act, Congress acted on a bipartisan basis to address these issues in a positive and proactive way.

Recently, our Committee has heard that the timing of the legislation presents challenges for some of the States. Given the recession and the havoc it has played on State budgets—and I can testify for my own State, as well—while I understand the harsh budget realities faced by nearly every State, I also know that children in foster care can't wait for time when reform is convenient.

All of us have a responsibility for foster children, and we need to squarely meet that obligation. So I, therefore, thought it was good to look forward to hearing from our witnesses about the implementation of the law's new options and requirements.

The Committee is particularly interested in learning how States have extended support to grandparents and other relatives who wish to act as legal guardians for foster kids. We are also interested in hearing how States intend to extend foster care services up to the age of 21, as well as extend other supports to older youth.

Furthermore, we would like to know if States have fulfilled the new requirements related to providing greater oversight of the health care and educational needs of all foster kids, placing siblings together whenever possible, and notifying relatives within 30 days of a child's removal from their biological home.

Additionally, we are interested in learning about the experience of those tribal governments who are planning to operate their own tribal welfare system, as well as those that are considering such a move. And, finally, we are looking forward to hearing about the impact of the law on promoting and increasing the number of kids who are adopted out of the foster care system.

This act was a landmark piece of legislation. It included a number of policy changes and reforms without adding one penny to the Federal deficit. The legislation represents the Congress at its very, very best. It shows what can be achieved when both sides come together to work in good faith to address a problem.

There are certainly other challenges in the foster care system that demand more of this vision and energy and commitment. And I look forward to hearing from all our witnesses today.

And now I yield to my colleague, Mr. Linder, for any opening remarks he may wish to give.

Mr. LINDER. Thank you, Mr. Chairman.

Today's hearing reviews the implementation of the Fostering Connections law approved last fall. That law made important changes we all hope will benefit young people in foster care. Changes included stepped-up efforts to place children with relatives instead of strangers and improved incentives for adopting children out of foster care.

I am especially interested in provisions designed to improve the school stability and performance of foster youth, among others. We need to do a better job of ensuring foster youth stay connected with their school. Research and common sense suggest that would help more graduate on time instead of dropping out, as too often happens. We welcome the testimony of Kathleen McNaught of the American Bar Association on that score, both on implementation of

the law and on challenges that remain to making that vision a reality.

While it is certainly worth reviewing these issues, I am struck by what we are not considering today. For example, the Subcommittee has jurisdiction over the special extended unemployment benefits program created in June of 2008, which already has been extended and expanded twice. The Federal Government has paid or promised a total of \$73 billion in special and extended benefits to date. Proponents suggest that this would stimulate the economy and create jobs, yet unemployment has risen to 9.7 percent, nearly 2 percentage points higher than stimulus supporters predicted.

Further stretching the bounds of logic, last week the Administration claimed 1 million jobs had been created with the stimulus law. In fact, there have been 3 million jobs eliminated since February. This weekend, National Economic Council Director Larry Summers said, "Unemployment will, by all forecasts, remain unacceptably high for a number of years."

Just currently approved spending has drained the State and Federal unemployment accounts and will lead to deficits totaling more than \$100 billion by late 2010 and another \$200 billion by 2012. Further extensions and expansions will add massively to that tide of red ink. But what of the promised jobs? When will they arrive? And, in the meantime, how high will unemployment, spending, borrowing, and, ultimately, taxes go? How much will that tax hike hurt job creation?

Those would be good topics for future hearings, too. It is past time for us to review how we can really increase jobs so laid-off workers can get paychecks, not unemployment checks.

We also recently learned that stimulus checks were paid to thousands of current prisoners. Was that intended? How much did that cost? Is that being fixed? Another excellent oversight hearing for us.

Or how about the fact that New York State recently issued \$200 back-to-school checks to welfare and food stamp recipients using Federal stimulus funds under our jurisdiction? That set off a mad scramble for ATM withdrawals and spending on liquor, flat screen TVs, and who knows what else—all with Federal taxpayer dollars, all for the children, and especially stimulative, we were told, because low-income folks were likely to spend the money quickly. They did. Yet New York's unemployment rate remains high and rising, as does the debt we are leaving our children.

So while I welcome today's hearing, I respectfully suggest there are other topics well worth exploring also. Those might also provide useful information about ensuring taxpayer dollars are well and effectively spent and maybe even about creating real jobs. Everyone, including foster youth as they become adults, would benefit from that.

Mr. Chairman, I ask unanimous consent to include in the record at this point two articles that detail concerns about recent abuses involving stimulus funds.

The first is an August 27th AP article that notes 3,900 stimulus checks went to inmates. As the article relates, some checks were sent in error. About 2,200 of the inmates who received checks got

to keep them because, under the law, they were eligible, said a spokesman for the Social Security Administration.

The second article from CBS News on September 2nd relates how welfare recipients in New York State received \$200 back-to-school payments, which some adults used to purchase flat-screen TVs, video game systems, phone cards, and even cigarettes and beer—none of which has anything to do with helping school children go back to school, but all of which was paid for with Federal stimulus dollars.

Thank you, Mr. Chairman.

Chairman MCDERMOTT. Without objection.

[The statement of Mr. McDermott follows:]

**Chairman Jim McDermott  
Opening Statement  
Hearing to the Implementation of the Fostering Connections to Success  
and Increasing Adoptions Act  
September 15, 2009**

One year ago Congress passed the Fostering Connections to Success and Increasing Adoptions Act. The basic premise of the law is that foster children need the same things to succeed that all children need - a safe home, a caring family, a good education, and access to health care.

And yet the foster care system too often unnecessarily disrupts connections to the home, family and school.

Whether it is expecting foster children to go it alone at the age of 18, or denying assistance to grandparents who become legal guardians, or unnecessarily displacing children from their schools, or separating them from their siblings.

The result is to sever or reduce the links that foster children need to successfully navigate their way to adulthood.

With Fostering Connections, Congress acted on a bi-partisan basis to address these issues in a positive, proactive way.

Recently, our subcommittee has heard that the timing of the legislation presents challenges for the States given the recession and the havoc it has played on State budgets.

While I understand the harsh budget realities faced by nearly every State, I also know that children in foster care cannot wait for a time when reform is convenient.

All of us have a responsibility for foster children and we need to squarely meet that obligation. I therefore look forward to hearing from our witnesses about the implementation of the law's new options and requirements.

The committee is particularly interested in learning how States have extended support to grandparents and other relatives who wish to act as legal guardians for foster youth.

We also are interested in hearing how States intend to extend foster care services up to the age of 21, as well extend other supports to older youth.

Furthermore, we would like to know if States have fulfilled the new requirements related to providing greater oversight of the health care and educational needs of all

foster children, placing siblings together whenever possible, and notifying relatives within 30 days of a child's removal from their biological home.

Additionally, we are interested in learning about the experiences of those tribal governments who are planning to operate their own tribal child welfare program, as well as those that are considering such a move.

Finally, we look forward to learning about the impact of the law on promoting and increasing the number of children adopted out of the foster care system. The Fostering Connections to Success and Increasing Adoptions Act was landmark legislation. It included a number of policy changes and reforms without adding one penny to the Federal deficit. The legislation represents the best of Congress.

It shows what can be achieved when both sides come together to work in good faith to address a problem. There are certainly other challenges in the foster care system that demand more of this vision, energy and commitment.

I look forward to hearing from all of our witnesses today and now yield to Mr. Linder for any opening comments that he may wish to give.

[The information follows:]

3,900 stimulus checks went to inmates - The Boston Globe

Page 1 of 1

**boston.com**

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

## 3,900 stimulus checks went to inmates

**AP** Associated Press

By Stephen Ohlemacher, Associated Press | August 27, 2009

WASHINGTON - The federal government sent about 3,900 economic stimulus payments of \$250 each this spring to people who were in no position to use the money to help stimulate the economy: prison inmates.

The checks were part of the economic recovery package approved by Congress and President Obama in February. About 52 million Social Security recipients, railroad retirees, and those receiving Supplemental Security Income were eligible for the one-time checks.

Prison inmates are generally ineligible for federal benefits. However, 2,200 of the inmates who received checks got to keep them because, under the law, they were eligible, said Mark Lassiter, a spokesman for the Social Security Administration. They were eligible because they weren't incarcerated in any one of the three months before the recovery package was enacted.

"The law specified that any beneficiary eligible for a Social Security benefit during one of those months was eligible for the recovery payment," Lassiter said. The other 1,700 checks? That was a mistake.

Checks were sent to those inmates because government records didn't accurately show they were in prison, Lassiter said. He said most of those checks were returned by the prisons.

The Boston Herald first reported that the checks were sent to inmates.

The inspector general for the Social Security Administration is performing an audit to make sure no checks went to ineligible recipients, spokesman George E. Penn said. ■

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[The information follows:]

Unplugged Exclusive: Stimulus Funds for School Supplies Misused - Political Hotsheet - ... Page 1 of 4

CBSNEWS

Political Hotsheet

September 2, 2009 1:26 PM

## Unplugged Exclusive: Stimulus Funds for School Supplies Misused

Posted by Sharyl Attkisson



(CBS)

Getting kids back to school with the clothes and supplies they need can strain the family budget. That's why the Governor of New York decided to use federal stimulus funds for a back-to-school program. Needy families got a one-time payment of \$200 dollars per child to buy school supplies. It adds up to \$140 million of your tax dollars.

Neasey Hendricks, single mother

of five, says she's putting the money to good use.

"Definitely sneakers, try to save a little bit for a haircut, a couple of pairs of pants, some shirts, get the girls a few skirts," Hendricks says.

While few argued with the concept of helping low-income families, nobody anticipated the chaos that would come next.

On August 11th, the state of New York deposited the \$140 million in stimulus money into the individual food stamp and welfare accounts of people on public assistance. Some saw their balance shoot up by a thousand dollars all at once. The idea was they would use their regular welfare benefits card, which acts like a debit card, to buy the school supplies. There was just one problem. The letter from the state telling them what the money was for didn't arrive until days later. By then, it was too late. [See the Letter Sent to Recipients \(PDF\)](#).

"No one questions the intention of this particular program. However there is an extraordinary distance between the good intention of the program and the implementation of the program," Monroe County's Commissioner of Health Services Kelly Reed said on Wednesday's edition of "Washington Unplugged," which first reported the story. (You can watch the show at left.)

County Executive Maggie Brooks says social workers were flooded with calls from merchants who were afraid fraud was being committed.

"We had different retailers calling us and saying people were coming in with their benefit transaction card, and they are purchasing flat screen TV's, iPods and video gaming systems," Brooks told CBS News. Brooks doesn't blame the recipients - she blames the state for not ensuring the funds were spent for school.

Businessman Josh Babin says the day stimulus money went into the welfare accounts, business at his Rochester cell phone store doubled. And he doesn't sell school supplies. "Most of them came in, picked up most of their accessories, most of their products."

Welfare recipients were also free to withdraw the money as cash. That led to an unexpected run on ATM's across the state. Brenda Smith, manager of a Wilson Farms store in Monroe County, said most of her increase in sales when the stimulus funds were disbursed were not in school supplies, but in "pre-pay cell or credit cards." She said her store's ATM was wiped empty.

Managers of three Wilson Farms convenience stores in Rochester also reported empty ATM machines and increases in beer, lotto and cigarette sales.

Managers of four Tops Markets stores in Rochester had similar stories. On West Avenue, the store's three ATM's were all depleted by noon on August 11th. "Large increase in volume of customers but minimal spoke in sales which were not in school supplies but rather candy racks at the register," stated investigative notes obtained by CBS News. So many welfare customers were seeking cash back; the stores implemented a \$50.00 cash back limit on-the-spot. At the East Ridge Road location, the ATM ran out of money on August 11 as well. "Numerous clients came in and purchase minimal items to withdraw the \$50.00 limit and then returned to other cashiers in the store in order to retrieve all the money out of their account," reads investigative notes. And on Upper Falls Blvd., the Tops Market reported "500 more customers" but "\$4,000 less in sales" than usual. Also, ATM's containing \$60,000 were entirely depleted.

On "Unplugged" Reed said one recipient "had \$1000 dollars on their card and jumped over a

period of a few minutes over eighteen lines in a Tops store buying something for forty nine cents for two dollars for fifty cents and getting fifty dollars back in cash," each time.

ATM's were also wiped out in hours at many Wegman's stores statewide and the owner of a Sunoco station described "scenes of panic" at her store, with public assistance customers flooding her ATM machine. Some of them, she says, immediately used the cash to buy cigarettes and beer.

Monroe County investigators sampled the accounts of more than 70 drug and alcohol rehabilitation clients and found more than half of them withdrew their back-to-stimulus funds entirely in cash.

New York Congressman Eric Massa (D-NY) supports the stimulus bill, but said this program is flawed. "It's a matter of accountability," Massa said. "Ensuring what's happening with the funding. You and I both know where there's crevices, the water will go through those crevices."



(CBS)

New York State officials defend the stimulus program saying no matter what welfare recipients purchased with the taxpayer funds, it served to stimulate the economy. State spokesman for the program, Kristen Proud said it stimulated the economy. Supporters accuse critics of making unfair stereotypes about welfare recipients. "We have as many examples of families using the dollars for school clothes, school uniforms, school supplies,"

Proud said when asked about reports of luxury items being purchased with the back-to-school stimulus funds.

In Rochester, the Rev. Marlowe V.N. Washington, Pastor of the Baber African Methodist Episcopal Church, contacted CBS News to say that hundreds of grateful local residents have been helped by the back-to-school funds, and that it's unfair for anyone to assume they didn't spend the money on school supplies. "That is offensive, attacking and mean spirited," Washington told us. "People need to hear how stimulus funds have benefited American families

and not hurt them.\*

We asked the Inspector General on stimulus funds for comment on this stimulus project. Based on our report, I.G. spokesman Edward Pound told CBS News that his office has notified the HHS Inspector General to make sure that agency is aware of the problem. HHS is the department from which the back-to-school stimulus funds to New York State originated.

Because debit cards don't list what was bought, state officials say they'll never know how much of the \$140 million actually went for school supplies. Those who bought luxury items didn't break any laws, because there were no strings attached to the money. Little consolation to taxpayers who were promised that they'd know how every dime of stimulus funds was spent.

*"Washington Unplugged" appears live on CBSNews.com each weekday at 12:30 p.m. ET. [Click here to check out previous episodes.](#)*

Chairman MCDERMOTT. Although, I would point out, those subject matters are not before the Committee today. You might want to keep them and also submit them again when we do have a hearing on issues related to it.

All Members have 5 working days to submit statements for the record.

And Mr. Camp has submitted a report, which I would like to submit for the record. Without objection, they are entered in the record.

[The information follows:]



**OPENING STATEMENT OF RANKING MEMBER DAVE CAMP (R-MI)  
INCOME SECURITY AND FAMILY SUPPORT SUBCOMMITTEE  
HEARING ON THE IMPLEMENTATION OF THE FOSTERING CONNECTIONS TO SUCCESS  
AND INCREASING ADOPTIONS ACT  
SEPTEMBER 15, 2009**

(REMARKS AS PREPARED)

Chairman McDermott and Ranking Member Linder, thank you for holding this hearing today.

As a long-time member of this Subcommittee and advocate for foster children and adoption, I was pleased to see Congress enact the *Fostering Connections to Success and Increasing Adoptions Act* (P.L. 110-351) with unanimity last year. This bill is a true testament to how Congress can work together to improve foster care and help children find permanent homes. There is no more noble cause.

However, we should not be satisfied with simply passing bipartisan legislation. Ensuring this legislation is properly implemented and the programs enacted are actually working is paramount. For many children in foster care, there is only one chance to get it right. And all too often, the system fails them.

I am eager to learn of the success and challenges faced by the *Fostering Connections* law, including those striving to implement it and most importantly children it is intended to benefit. Helping and supporting families to remain unified must be an overarching goal of our federal child welfare policy. I am glad that the *Fostering Connections* law included several policies addressing this topic, such as supporting guardianship arrangements and requiring states to search for families beyond their borders.

Importantly, the law made critical improvements to ensure that children who are no longer able to remain safely with their biological parents find permanent safe, loving homes through adoption. By extending the Adoption Incentive Program and easing federal requirements for federal adoption assistance for special needs children, the bill continues to engage states on ways to facilitate adoptions, especially for children with unique challenges. I am also pleased that the bill included legislation I worked tirelessly on to allow Native American tribes to receive federal Title I-VE payments. This long overdue change gives tribes the ability to reach their neediest members in a manner appropriate to their tribal traditions.

-OVER-

We also must not overlook the critical changes to help support children in foster care and assist those who age out. The *Fostering Connections* law promotes the ability of children to remain at their home school when they are placed in foster care, giving them greater chances to succeed. As members of this subcommittee know well, a strong education is the key to ending the cycle of poverty and helping young people and their families become financially stronger.

While these challenges are laudable, significant work remains. Over 500,000 children nationally are in foster care today, many of whom languish for years without getting the help and love they deserve from permanent families. Equally alarming, in 2007 the National Child Abuse and Neglect Data System (NCANDS) reported an estimated 1,760 child fatalities resulting from abuse or neglect. This is simply unacceptable.

Mr. Chairman, I am pleased that you are holding this hearing to find out what's working with the *Fostering Connections* law. And I stand ready to work with you and all the members of this committee to further strengthen our federal programs so that every child has the chance to grow up in safe and loving home.

###

Chairman MCDERMOTT. Mr. Van Hollen is here to introduce our first witness.

Mr. VAN HOLLEN. Well, first, thank you, Mr. Chairman and Mr. Linder, for holding this hearing today, and thank you for your work on the *Fostering Connections* legislation. This is an opportunity for us to address the implementation of that legislation.

I welcome all the witnesses, but I want to give a special welcome from my State of Maryland to our secretary of human resources in Maryland, Brenda Donald. And I want to thank her for her leadership in Maryland.

And prior to serving the State of Maryland, helping with foster kids and adoption and protective services, she was the deputy Mayor of the District of Columbia, working on these issues as well. So she has a lot of experience that has been put to very good use in our State. And I know the congressional delegation has enjoyed working with her and our Governor.

And welcome to this Committee. Thank you for being here.

Thank you, Mr. Chairman.

Chairman MCDERMOTT. Ms. Donald.

**STATEMENT OF THE HONORABLE BRENDA DONALD, OFFICE OF THE SECRETARY, MARYLAND DEPARTMENT OF HUMAN RESOURCES, BALTIMORE, MARYLAND**

Ms. DONALD. Thank you very much. I really do appreciate the opportunity to be here with you today.

Chairman MCDERMOTT. Can I stop you for 1 second? Your whole statement will be put in the record, so we hope that you will stay within 5 minutes.

Ms. DONALD. Absolutely, sir. I know the ground rules.

And I do want to compliment you on your "Save the Children" tie. It is most appropriate for today's hearing.

Shortly after Governor Martin O'Malley appointed me secretary in February of 2007, I launched a comprehensive child welfare re-

form agenda, known as "Place Matters." The premise is very simple and certainly quite consistent with the Fostering Connections Act, and that is: Nothing matters more to a child than a place to call home.

Since the inception of Place Matters, Maryland has made some significant progress. In just 2 years, we have reduced the number of children in care from 10,300 to 8,800 and reduced the number of children in group homes by 40 percent. Seventy-two percent of our children are currently in family settings, and we are seeing record numbers of adoptions, guardianships, and reunifications.

I would like to take my few minutes with you this afternoon to discuss how we are implementing Fostering Connections in Maryland. The act underscores some of what Maryland is already doing around subsidized guardianships and supports for older youth. It has also spurred activity in areas that Maryland knows must be priorities. In this way, the act provides a catalyst and a foundation to support further progress.

Nonetheless, this is comprehensive and complex legislation. We have spent many hours strategizing about how to implement Fostering Connections. As ahead of the curve as Maryland is in some ways, it should not be a surprise that we are not quite there yet. It will be a major lift to work successfully with our State's health and education systems. In addition, we are operating, as you mentioned, in an economic environment that leaves little room for new programs or unfunded mandates.

In terms of the guardianship program, Maryland provided subsidized guardianship payments before the act was passed. We began with a 5-year Federal demonstration waiver that was continued with State funding for about 500 children. Our initial projections call for a recoupment of approximately \$600,000 annually when the Fostering Connections guardianship program is fully implemented, and our intention is to reinvest those funds to support other child welfare programs.

In terms of kinship providers, currently Maryland makes foster care payments to some 700 relatives providing care to about 900 children. Another 1,700 children, also placed with relatives, receive a subsidy through child-only TANF dollars. If all of these kin were to become licensed, as is encouraged under the act, this could have a significant fiscal impact.

And I should point out also that all of our kin, whether they are licensed and receiving room and board payments or TANF only, still receive the same services and supports for their children, and their children are part of our foster care system.

In terms of older youth, Maryland currently provides a robust support system for older youth already up to age 21. Now, of course, youth over age 18 are currently not eligible for Title IV-E reimbursement, so the services are entirely State-funded. When the Fostering Connections provisions become effective, they will generate significant additional Federal funds for us to reinvest in critical services for children and families. Thank you very much.

Maryland's independent living policy meets virtually all of the new requirements, but we still require guidance for a number of things: whether we can still make payments directly to youth who are in our semi-independent living program; what can be consid-

ered a supervised independent living setting; what types of, quote/unquote, "medical conditions" might opt youth out of educational or work provisions; and what types of ongoing court supervision is required. And we await regulations for those critical elements.

Fostering Connections provides a good foundation for supporting educational stability and good outcomes for children in foster care, but Maryland will need time to fully realize this goal. We work very closely with our State department of education, and our policies are consistent with the act. However, full implementation requires considerable cooperation and collaboration with 24 local education authorities. There are a number of unanswered questions. We have to grapple with issues of attendance records, transportation, and who is responsible for the associated costs.

In terms of health care, our current health care system meets many of the Federal requirements, but we have requested an extension on the full implementation of this provision. We are working with our State department of health around the data-sharing element, and those will require legislation and funding for technology upgrades, so we have asked for an extension.

In summary, thank you again for this landmark legislation. As I discuss with my colleagues what is missing, front-end service is on everyone's list. We cannot emphasize strongly enough the benefits of maintaining children safely at home when at all possible.

Another critical need is that all children and families found to be in need of public child welfare services we believe should be eligible for Federal support. And I know many of the panelists are going to talk about the delink issue, and so I will leave that to their testimony.

And thank you for your time, and I am available for any questions that you may have.

[The statement of Ms. Donald follows:]



**Written Testimony of  
Brenda Donald  
Secretary  
Maryland Department of Human Resources**

**Before the  
Subcommittee on Income Security and Family Support  
Ways and Means Committee  
U.S. House of Representatives**

**Hearing on Fostering Connections to Success and Increasing Adoptions Act of  
2008 (P.L. 110-351)**

**September 15, 2009**

Good Morning, Chairman McDermott, Ranking Member Linder, Representative Van Hollen, and Members of the Subcommittee.

I am Brenda Donald, Secretary for the Maryland Department of Human Resources (DHR). I am also a member of the American Public Human Services Association and a board member of the Child Welfare League of America.

I appreciate the opportunity to testify before you today. Thank you for legislation that recognizes the importance of permanency and well-being for the children who are involved in the child welfare system.

As the Secretary for the Maryland DHR, I provide leadership for nearly 7,000 employees who provide foster care, adoption and protective services to 8,880 children, collect and distribute child support payments and administer temporary cash, food stamps and medical assistance to families. DHR delivers these programs and services to 600,000 people annually, through 24 local Departments of Social Services.

#### **Maryland's *Place Matters* Reform**

Shortly after I was appointed secretary in February 2007, Maryland launched a comprehensive child welfare reform agenda known as *Place Matters*. *Place Matters* has four primary principles: keep a child with his or her family as long as it is safe to do so; when a child must come into foster care, place that child with his or her own relatives whenever possible; place a child as close to his or her original community as possible; and minimize the length of stay for children in foster care.

Since the inception of *Place Matters*, Maryland has made some significant progress. In July of 2007, there were 10,300 children in foster care. Maryland has 13 percent fewer children in care today. Maryland has also reduced its historic reliance on group homes. Whereas two years ago more than 2,000 foster children lived in group homes, today, fewer than 1,200 do (roughly 13 percent of children in foster care). This represents a more than 40 percent decrease in the number of children placed in group homes. Today the department is placing more children in family homes than it did at the outset of *Place Matters*. The percentage of children residing in a family home has increased from 68 percent two years ago to 72 percent today. Maryland is seeing an upward trend in the number of children leaving foster care through increased adoptions, reunifications and guardianships. In fiscal year 2007, Maryland helped 597 children get adopted. In 2009, Maryland finalized 773 adoptions – a 29 percent increase.

Maryland's comprehensive *Place Matters* approach to child welfare reform is consistent with the intent of the Fostering Connections and Increasing Adoptions Act. Indeed, the Act provides a catalyst and foundation to support further progress. However, today's economic environment provides challenges in implementing the new legislation. The legislation is complex and involves policy and procedural changes across many different units within the agency.

Over the last two years, Maryland has not experienced significant cuts in its child welfare budget but, like most states, we have had several rounds of furloughs and reductions in vacant positions.

The next two fiscal years are projected to be dismal, and it is likely that we may have to consider cuts in child welfare for the first time. Clearly, the economic environment does not leave much room for the implementation of new programs or unfunded mandates.

## WHAT STATES NEED TO IMPLEMENT THE ACT

### Optional Provisions

At the time Congress passed Fostering Connections, Maryland was one of only a handful of states that had both extended care to youth until age 21 and provided subsidized guardianship payments. However, even Maryland is struggling to implement these optional provisions and the host of new requirements. For example, Maryland is in the midst of assessing how our extended care and subsidized guardianship programs differ from what is outlined in the law, and deciding if and how our state programs can be revised to meet federal requirements.

#### *Guardianship Assistance Program*

Maryland provided subsidized guardianship payments before the Act was passed. In 1997, Maryland's Subsidized Guardianship program began as a five-year federal demonstration waiver project. In 2006, the Maryland General Assembly authorized state money to continue the program and fund guardianship subsidies for 500 children, including approximately 200 children from the 1997 demonstration project and 300 new children. This program offers financial assistance to families who obtain guardianship of children who are court-committed to a local department of social services. Maryland is in the process of assessing whether our current program meets federal requirements of Fostering Connections. Our initial projections call for a recoupage of approximately \$600,000 annually when the Fostering Connections guardianship program is fully implemented. Our intention is to reinvest those funds to support other *Place Matters* child welfare programs.

#### *Kinship Providers*

Currently, Maryland makes foster care payments to some 700 relatives providing care to 900 children. Another 1,700 children, also placed with relatives, receive a subsidy through "child-only" TANF dollars. These two populations are provided the same services, are tracked in the state's automated child welfare system, and are included in the AFCARS reporting population. The only difference is the mechanism through which they are financially supported to provide care for their kin.

In Maryland, all relatives are offered the option of becoming foster parents. However, two thirds of our relatives choose to receive TANF child-only payments. Many relative caregivers feel a moral responsibility to accept a child into their home instead of allowing them to be placed in non-relative foster care, but see the arrangement as temporary – anticipating that the child will be reunified – and do not want to go through the full foster care home study.

Relatives who do opt to become foster parents must go through the same approval process and meet all the state standards to provide foster care. They are paid the regular foster care board rate. These children are generally IV-E eligible for federal reimbursement. TANF child-only homes go through a modified home study that includes all the safety checks, but does not require

Maryland's PRIDE training and waives non-safety requirements such as space. Under the Act, relatives who do not receive foster care maintenance payments are not eligible for guardianship assistance. The requirement under the Fostering Connections Act significantly differs from how Maryland's current program operates. Maryland is analyzing what impact the requirement to be a licensed foster parent will have on our program.

There are yet other relatives caring for children on child-only TANF grants where the child is not being served by the state protective service system. As such, these children are not in our custody nor are they tracked for AFCARS reporting. In these situations, the child's parent(s), without the involvement of any local office, voluntarily make arrangements to place their child with a person who meets the federal requirements of child-only TANF payments. Custody is not required and the caregiver applies for TANF based on the child's resources. The TANF office provides Consent for Healthcare and Education Affidavits giving the authority to enroll the child in school and obtain health care.

Using TANF funds for child welfare services provides a vital support for relative caregivers. Many of these families are not known to the child welfare system, and bringing them into the system would not only be a significant workload issue, it would also potentially present a psychological problem for families. Additionally, child-only TANF grant funding is less costly than claiming Title IV-E foster care maintenance payments. Including both child-only TANF-funded foster children, as well as those who are not known to the system into the foster care payment funding stream will have significant budgetary impacts on child welfare systems.

#### **Mandatory Provisions**

##### ***Older Youth***

Prior to Fostering Connections, Maryland provided a robust support system for older youth. Maryland supports eligible young adults ages 19-21 if they have a disability or remain in an educational or vocational program or are working at least part-time. Of course, these youth are currently not eligible for Title IV-E reimbursement. When the Fostering Connections provisions become effective, they will generate significant additional federal funds for us to reinvest in *Place Matters*.

Policy is already in place that meets virtually all of the new requirements. Maryland regulations stipulate that youth ages 14 to 21 who are committed to a local department shall receive independent living preparation services, regardless of the type of placement. The Ansell-Casey Assessment Tool is administered to youth, ages 14 to 18, on an annual basis and provides age-appropriate benchmarks and skill development for youth.

Core services for transitioning youth include: education, employment, health and mental health services, housing, and life skills. Plans must be updated every 180 days. Statutory law requires that youth age 16 and older must have a judge review their transition and permanency plan every six months (except for youth who left care and signed a voluntary agreement for services). Children who leave care and feel the need for services, may access the full range of services except for re-entry into a foster care placement. Maryland has a tuition waiver program to enable

youth to attend state institutions for post secondary education at no cost and provides some financial support for supplies and room and board. Chafee funds and education training vouchers (ETV) are available.

Maryland has a Semi-Independent Living Program that provides youth opportunities to learn and practice independent living skills while living in an apartment that is supervised by a licensed provider or the local department of social services. This option is available for youth ages 16 to 21 who have demonstrated sufficient maturity to manage money and maintain eligibility by remaining enrolled in and regularly attending school, or who are in vocational training or maintain journeyman employment.

After-care services are available on a voluntary basis to youth ages 18 to 21 that were in out-of-home care on their 18<sup>th</sup> birthday and exit out-of-home care on or after their 18<sup>th</sup> birthday. After-care may be provided for up to six months, and includes limited financial assistance, assistance towards room and board, counseling, employment assistance, assistance in accessing and receiving medical services and other appropriate services. Maryland also extends Medicaid to youth who remain in the system and former foster youth through their 21<sup>st</sup> birthday.

What we still require guidance for is whether we can make payments directly to youth who stay in care, what can be considered a "supervised independent living setting," what types of "medical conditions" might opt youth out of educational or work provisions, and what types of ongoing court supervision is required.

#### ***Education***

Maryland recognizes that there is a fundamental state responsibility for children to experience a seamless progression from preschool through college to lifelong learning and successful employment. The Fostering Connections legislation provides a good foundation for supporting this philosophy and encouraging the partnerships required to implement it. But states will need time and support to realize this goal.

When a child enters placement, DHR makes every effort to keep the child in his or her own school district. This can be a challenge. When a child must be placed outside their home school district, Maryland requires that enrollment in school must happen within five days. In order to minimize disruptions to a child's educational well-being, state law and regulations (enacted in 2008) facilitate the prompt enrollment in school of children in state-supervised care by expediting the transfer of their educational records. State regulations require a caseworker to enroll a child within five days of an out-of-home placement unless factors outside the control of the local department of social services prevent enrollment. A school may not prevent a child from enrolling because it does not have the child's school records. The child's sending and receiving schools must work together to transfer the child's school records within one week. Within 10 days of enrollment, the placement agency caseworker must identify and provide contact information to the child's receiving school regarding who is authorized to make educational decisions for the child.

DHR has worked very closely with the Maryland State Department of Education on enrollment issues. However, implementation of the Act requires considerable cooperation and collaboration with local education authorities. The Act will require States to grapple with issues of attendance

records, transportation, and the responsibility parties for the associated costs. Meeting this requirement of the Act will require negotiation that will undoubtedly take longer than the time allotted by the Act.

***Relative Notification***

Maryland recognizes that children belong with families, especially their birth families or relatives. State policy requires that efforts be made to place with relatives first, rather than unrelated foster parents. Maryland is aggressive in seeking relative placements. The court makes inquiries of the parents at the initial shelter hearing, and agency staff gather information at the family team meeting that takes place when a child is at risk of removal, or within three days of placement.

Although current Maryland law and policy align with and meet the requirement of the federal mandates, Maryland hopes to be awarded a Fostering Connects grant to further expand family finding activities, which we currently do in on a few counties.

***Sibling Connections***

All siblings must be placed together unless there is compelling reason for separation. The only acceptable compelling reason is where it is not in the best interest of the child. Case files must document in the child's case plan whether the child is placed with siblings and explain why if siblings are separated. The case plan must also include an appropriate visitation schedule. Special recruitment efforts are made to find foster families to reunify separated siblings and take large sibling groups.

***Health Oversight***

The federal law emphasizes pursuing appropriate health care for children in out-of-home placement, and this is also a state priority. The current statewide system meets many of the federal requirements, but Maryland has requested an extension on the full implementation of this provision. DHR is currently in discussions with the Maryland Department of Health and Mental Hygiene (DHMH) to develop a plan that will meet the requirements of the Act. There is discussion about the benefits of electronic information sharing, but this would require legislative approval for the database linkage and funding for technology upgrades needed to implement.

All children who come into care have a comprehensive health screen within five days and a comprehensive assessment within 60 days. All children have a health passport that is maintained on the SACWIS system. This centralized data collections ensures that the current caregiver, medical providers and caseworkers have access as needed to the child's medical records. The passport follows the child when the child exits care.

DHR has recently implemented a comprehensive health care program in Baltimore that we believe aligns closely with the Act. Under the management of the City Health Department and in conjunction with DHR, DHMH, Medicaid and health care providers, Baltimore City has nurse care manager assigned to each child. These nurses do not provide direct medical care but are consultants to the child's caseworkers to ensure that appropriate medical, dental and mental health care services are provided. DHR would like to take this model statewide; unfortunately, expansion of the health care model is not in the 2010 budget.

**Conclusion**

In summary, thank you again for the Fostering Connections and Improving Adoptions legislation and inviting states to share some thoughts about implementation opportunities and challenges. As I discuss with my colleagues what is missing, inevitably front end services are on everyone's lists. We cannot emphasize strongly enough the benefits of maintaining children safely at home when at all possible. Funding and support for preventive services are greatly needed.

Maryland has adopted a results based framework for improving the lives and well-being of children. As part of this framework, Maryland has affirmed that children should be safe in their homes and communities. In order to achieve the purpose and goals of family stabilization and to prevent placement, DHR provides a continuum of programs designed to meet the needs of individual families in crisis or at risk of dissolution. The services are designed to ensure the immediate safety of the child and strengthen the parents and/or caretakers capacity to provide minimal care and a safe environment.

These intensive in-home services include counseling; training in parenting skills and child development; crisis intervention; purchase of basic goods and services (e.g. food, clothing shelter, family planning, parenting skills, respite etc); and specialized services (e.g. diagnostic testing, medical care, substance abuse treatment, etc.). Two person in-home family support teams consisting of a caseworker and an aide carry small caseloads no larger than six families. Services are available 24 hours a day, seven days a week.

Another critical need is that all children and families found to be in need of public child welfare services should be eligible for federal support. Title IV-E options should be applied equally to all children and open for non-relative placements. De-linking foster care and guardianship assistance from the 1996 AFDC requirements would make more children eligible for IV-E and provide a new infusion of federal funds, freeing up more of the state's general revenues to support front end services and enable the development of specialized services where needed.

In these tough economic times, we look forward to working with you to continue our efforts to keep children safe and strengthen families. We are committed to not only meeting, but setting a new, higher national standard for serving vulnerable children and families.

Thank you for the opportunity to testify, and I'm happy to answer any questions you may have.

Chairman MCDERMOTT. Thank you for your testimony.

I must say that, like you, we are eager for the Senate to confirm some appointments for the Department of Health and Human Services on some of these program questions you will be able to get answers from the Federal Government.

Mr. Davis of Illinois is here.

Mr. Davis, would you like to introduce your guest, Mr. McEwen?

Mr. DAVIS of Illinois. Thank you very much, Mr. Chairman. And it is indeed my pleasure to introduce Mr. Erwin McEwen, the director of the Illinois Department of Children and Family Services.

Mr. Chairman, Illinois is a national leader in developing and demonstrating the effectiveness of pioneering child welfare reforms and the "Fostering Connections to Success and Increasing Adoptions Act," which enacts many of Illinois's successful reforms.

Mr. McEwen, or "Mac" as we know him in Illinois, is responsible for much of the vision and dedication to such reforms in Illinois. He is a remarkable leader in improving child welfare, and I am confident that his experience will help our Subcommittee understand how States are implementing the Fostering Connections law.

Mr. McEwen has an impressive academic and professional background. He started his social work career 15 years prior to earning his master's degree in social service administration at the University of Chicago. He has worked throughout the Illinois social service community, understanding the child welfare system from the ground up.

Many State advisory commissions and councils have benefited from his expertise. Indeed, Mr. McEwen has served as a Member of the Illinois Statewide Foster Parent Advisory Council, the Illinois Child Care Association Board of Directors, the Child Welfare Advisory Committee on Performance-Based Contracting, and the African-American Family Commission's Monitoring and Oversight Committee.

Mr. Chairman, I have a very active child welfare advisory Committee in my congressional district that is chaired by one of the most dynamic and energetic women in America, a woman named Annetta Wilson. And they are in constant contact with Mr. McEwen and his staff on a regular and ongoing basis. And I look forward to his comments today and welcome him.

Thank you very much.

Chairman MCDERMOTT. You are welcome.

We are holding this hearing today because we know the State directors are all here in Washington, so we could get some live ones right up here today.

And we welcome you, Mr. McEwen.

**STATEMENT OF ERWIN MCEWEN, DIRECTOR, ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES, CHICAGO, ILLINOIS**

Mr. MCEWEN. Thank you, Chairman McDermott, Ranking Member Linder, and a big thanks to Congressman Davis from Illinois, who is a great supporter of our department in Illinois in helping us get the job done.

My name is Erwin McEwen. I am the director of the Illinois Department of Children and Family Services. We call it one of the

most reformed child welfare systems in the Nation. We have been working really hard since the implementation of the “Adoptions and Safe Family Act” in 1997, when we had about 53,000 children in care. Now in Illinois we have about 16,000 children in care. And so we have really been working on trying to find ways to reduce the number of kids in care and better provide services to families. And this legislation is a big help to us in accomplishing that.

Even though we have our deficit challenges and budget problems in Illinois, just like a lot of other States, it is not going to prevent us from implementing this legislation and some of the important parts of it.

One of the ones I really want to talk about is supporting youth, the improvement of being able to provide services to youth between 18 and 21. In Illinois, we participated in a three-State study with Chapin Hall, a longitudinal study that looked at children in care who age out of care between the ages of 18 and 21. That study is now in its fourth phase, I think, and I think we are looking at kids 26 years old.

But what we know from that research is that kids do better when they have the support of the State; that a lot of kids in care, they graduate high school in later years, 19 and 20, as opposed to 18 in the general population, and having the benefit and the support of the State is critical. And so we really, really look favorably upon that part of the legislation and wish you could implement it today rather than wait until October the 1st of 2010.

In Illinois, we have carried kids in care to 21 for a long time. It is optional up to 19. And we recently just passed—Governor Quinn signed into law, our legislators passed, “Foster Child Successful Transition Into Adulthood.” What this legislation does is it allows kids who make the choice of leaving the system at 18 and 19 years old and then find out how difficult it is to go it alone to come back into care and receive the support of the State up to 21. And we just passed that legislation in anticipation of that October the 1st date when we will be able to get some help from the Federal Government to also support these kids.

The idea is that education is extremely important, allowing kids to finish school and go on to college. We have got about a thousand kids in our Youth in College program in Illinois, of that 16,000 kids. It is important for foster children to have that opportunity for education.

In looking at education, we have also implemented our “SchoolMinder” rotational intake. What that does is we try to identify the closest foster home to the child’s home of origin so that they don’t have to change schools and so that, if they can maintain the same school placement as when they came into care, it helps them have better educational outcomes, because we know that changing in school placements creates a great deal of problems for kids and it sets them back even further than they may already be set back.

We have met some challenges in implementing that program, but, using that same technology, we are now able to pinpoint where we need to do foster care recruitment so that we can try to increase the number of available foster homes and keep those kids close to

their homes of origin. And this is, again, going to help us achieve those goals in education that we are looking at.

And we just also recently passed the “DCFS Service Plans Improvement and Foster Permanency Changes Act.” And, in this act, we allowed the courts to reinstate parental rights on children who turn 13 or older in the system. And I know this may raise some eyebrows, but that same study that we did, it also showed that kids who turn 13 and 14 years old in the foster care system have a 98 percent chance of aging out of care and not going to permanency.

And so what we were trying to do was create ways of working more closely with parents. It doesn’t always lead to reunification, but we know when kids exit care they return to their parents’ home. And so, how can we work with parents who may be able to now care for these teenagers when they were unable to care for kids? And how do we help the kids to learn to how to navigate and work with their families and not be reinjured or reharmed in returning to home on their own? And so we look forward to working in that area, as well.

The other area that we looked at is supporting relative care. We think it is important. We just have one concern about the legislation. In looking at the legislation and understanding that you grandfathered in our kids who are in our subsidized guardianship category, who are in already through our demonstration project, we had concerns about other relatives who might not be licensed or unable to become licensed or not willing to engage in that process and not being able to claim those kids as well. Because we believe that that is great placement for those kids. A lot of the child and family services reviews have determined that those are good placements for these children. And we would like to have the support of the Federal Government in those placements.

I see I am out of time. The last thing I wanted to talk about was the delinking issue, but I am sure some of our other panelists will address that issue as well.

[The statement of Mr. McEwen follows:]

**Testimony of  
Mr. Erwin McEwen  
Illinois Director of Children and Family Services**

**Before  
the Subcommittee on Income Security and Family Support  
Ways and Means Committee  
U.S. House of Representatives**

**Hearing on Implementation of the Fostering Connections to Success  
and Increasing Adoptions Act (P.L. 110-351)**

Good morning, Chairman McDermott, Ranking Member Linder, Representative Davis and other distinguished members of the subcommittee. It is a pleasure to be here today and talk about my state's implementation efforts on the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351), herein referred to as the Fostering Connections Act.

I am Erwin McEwen, the Director of the Children and Family Services (DCFS) in Illinois, which is one of the most reformed child welfare systems in the world. In this position, I am responsible for child protection, foster care, adoptions, and guardianships. I have committed 20 years of service to youth and families in the Illinois social services community, serving at Kaleidoscope, DCFS, Hull House, and Lakeside. Thank you for your tireless efforts to improve the lives of our nation's at-risk children and particularly for this new law.

My state has come a long way since 1997 when the Adoption and Safe Families Act (ASFA) became law. Our foster care caseloads consisted of more than 51,000 children. As of June 2009, there were 18,042 children in foster care, a significant and moreover safe reduction. The percentage of minority children in state custody has also decreased and more children are exiting the system than coming in. This number is still too high and we continue to find new safe ways to reduce the number of children in foster care.

Like many other states, Illinois has a budget deficit that threatens the delivery of critical services throughout the human services continuum. That being said, we still plan to fully implement the Fostering Connections Act.

#### **Supporting Youth**

Supporting older youth is a priority for us and we appreciate Congress' focus on this issue. In 2008, Illinois had a little more than 1,500 youth ages 18 to 21 in state custody. Currently, foster youth may stay in care until age 19, regardless of their educational status. Some youth may continue in care to 21 due to special needs, however most choose to leave at 19.

In August, our legislature passed and Governor Quinn signed the Foster Child Successful Transition into Adulthood Act (HB 4054), which allows emancipated youth 21 years or younger to receive financial assistance from my department. This lays the foundation for us to implement the older youth option in P.L. 110-351 once it becomes available in October 1, 2010. Can you make the option effective today?

As many of you know, Illinois is one of three states participating in Chapin Hall's longitudinal study of foster youth. This study found that youth who are supported past their 18<sup>th</sup> birthday have better outcomes. DCFS programs for older youth have been found to reduce incidence of homelessness and incarceration, and increase achievements in employment. Moreover, the study found the longer youth are supported the more likely they are to graduate from high school and continue in college. Illinois also has tuition waivers for foster youth who wish to attend community college.

#### **Educational Stability Achievements**

Another priority for us is improving educational outcomes through educational stability for foster children. Illinois has a geographic information systems (GIS) application call "SchoolMinder" which is used for kids being placed into foster care. SchoolMinder helps children stay in their community and supports: education stability; continuity of services (received from their school); and parental and family visitation. GIS technology helps identify available foster homes that are near both the child's current educational setting and the home from which he or she was removed.

The state has been successful in keeping children in their schools of origin. However, the challenge for the state is that these homes are quickly occupied. The unintended benefit is that the state can now use GIS to focus its scarce foster parent recruitment and development efforts on just those communities that are most quickly exhausting their available resource parents. The current GIS-based recruiting effort, begun in January, 2009, is now seeing results. After a long decline, foster parent resources are now increasing. This is yet another example of our state using new ways to improve outcomes for our foster children.

Our state is constantly finding innovative ways to help foster children. This summer, Illinois passed the DCFS Service Plans Improvement and Foster Permanency Changes Act (HB 529). The new state law recognizing the lifelong bonds between parents and children and allows the court and my agency to review cases of children who are age 13 and over. Together, they determine whether the parents' whose rights were terminated can be restored. I know I've raised a few eye-brows, but just think who these young people return to once the age out. We are one of the first states to have such a program. Reinstatement will not automatically return a child to the custody of the parent, but will allow the court to oversee services and visitation. Moreover, this new program will help children understand and manage relationships with their birth families.

#### **Supporting Relative Caregivers**

Illinois leads the nation in permanent placements with relatives and has been operating this program through a waiver since 1996. We appreciate that Congress allowed states with waivers to grandfather our clients into the new federal IV-E program.

In 2005, nearly 100,000 of our state's grandparents had primary responsibility in caring for their grandchildren. Grandparents help keep children from coming into foster care in the first place. For those children who do enter the foster care system, 35 percent live with a relative while in state custody. Illinois will submit a IV-E plan amendment after the waiver is finished in October which is just a few weeks away. We will begin the new federal option on November 1, 2009.

The current waiver demonstration program is for children who have been in state custody for one year and have lived with a prospective guardian for at least one year. Similar to the new option, reunification and adoption must be ruled out as permanency options. Illinois' program supports mainly relatives; but children 12 years of age or older who are living with non-relatives are able to take advantage of the waiver program. Children in guardianship arrangements under the waiver are supported until their 18th birthday. If a child is still in high school the subsidy will continue until they graduate or turn 19, whichever happens first. A subsidy can also continue until 21 in the event that a child has severe special needs that are documented prior to the transfer of guardianship.

The subsidy policy under the waiver mirrors Illinois adoption subsidy, policy so there was no financial incentive to choose one option over the other.

One challenge will be that not all children living with relatives are IV-E eligible. And from my state's perspective, it is difficult to understand why there is no federal support for those relatives who do not wish to go through the licensing and training process.

I request that the National Association of Public Child Welfare Administrators' (NAPCWA) write-up on my state's implementation efforts be placed in the record. It has more details of our

efforts with the mandatory provisions as well as information on what Illinois applied for under the Family Connections grants.

**Supporting Children Safely with Birth Parents**

Fostering Connections was a tremendous step forward for Illinois' children and those across the nation. A missing piece in the law is safely supporting children with their families of origin.

In an effort to strengthen Illinois' needy families, our state passed the Differential Response Program Act (SB 807) in August. This effort allows the agency to take a more flexible, supportive approach in cases where the risk of harm to the child is low. We conduct a less disruptive family assessment, rather than a formal departmental investigation and we tailor additional, individualized services to support the family and protect the child.

This legislation brings us closer to the day when families can voluntarily turn to us for help raising their children safely and successfully.

**How Illinois Utilized TANF to Support the Well-Being of Foster Children**

I understand that Congress will be reauthorizing the Temporary Assistance for Needy Families (TANF) program next year. The Child-Only Grant, part of TANF, is an extremely important service for most relative caregivers, whether or not they are served by the Extended Family Support Program (EFSP or 'the Program'). EFSP provides assistance to persons who are caring for their relative's child when the child is not part of our formal child welfare system. Relative caregivers call our hotline not because the children are abused or neglected but because the children have been living with the relative caregiver for more than 14 days and the relative caregiver is seeking assistance. The program receives over 1,200 referrals per year and about two-thirds of which live in Cook County. Some of these families are not eligible for services so typically the program assists around 1,150 families per year. For most of these cases, the child will be living with the relative caregiver until he or she becomes an adult so the program assists the family in seeing a permanent home for the child. This often includes helping the relative caregiver obtain private guardianship at the local probate court. The program also helps the relative caregiver enroll the child in the local school and obtain the child only grant and medical benefits for the child. If the relative caregiver is employed, the Program also attempts to help the relative caregiver obtain subsidized daycare through IDHS. The Program provides other services needed to keep the family stable.

**Delink Foster Care**

A challenge for Illinois is the shrinking federal dollars due to the foster care look-back. Certainly, we appreciate Congress' willingness to eliminate it for adoption assistance, but that is just one step. It is estimated that there has been a 5 percent decrease in foster care eligibility since 1996. This represents an annual loss of \$18,243,220 to Illinois and \$226,090,000 to child welfare across the county. I encourage you to delink foster care in the next child welfare package that comes before your committee.

Thank you again for this opportunity to testify. I am please to answer any questions you may have.



#### How States are Implementing the Fostering Connections Act

##### **Illinois' At-risk Children**

In June 2009, Illinois had 18,042 children in substitute care.<sup>1</sup> From July 1, 2008 until June 30, 2009 Illinois had approximately 4,334 children enter foster care and 4,740 exit foster care. Of those who exited care, approximately 1,342 were adopted, 424 entered subsidized guardianship, 903 aged out of the system and 2,071 reunified. In June 2007, Illinois had approximately 16,100 children in substitute care<sup>2</sup>, a significant reduction in caseload from 1997 when there were more than 51,000 in state custody<sup>3</sup>. Also in 1997, 59 percent of Illinois' child welfare population was African American<sup>4</sup>. That number was reduced to 55.3 % in June 2009. In 2006, a little more than 5,000 children entered foster care and approximately 5,500 exited Illinois' system. Illinois has led the nation in permanent placements with relatives. In 2005, about 99,768 Illinois grandparents had primary responsibility caring for their grandchildren. Of the 19,431 children in out-of-home care in 2005, 35 percent were living with relatives while in care<sup>5</sup>. Eighty percent of Illinois' foster children are under the supervision of private agencies<sup>6</sup>.

##### **Illinois' Budget Landscape**

The state has a budget deficit of \$4 billion for SFY 2009 and this increased to approximately \$9.2 billion for 2010. The state's revenue streams are much lower than expected<sup>7</sup>. The state relies on revenue from three major areas: sales taxes; income taxes; and fee for service. Tourism also serves as a revenue stream for the State of Illinois; however travel to Chicago, the main tourist destination, decreased this past year. The budget deficit threatens the delivery of critical services throughout the human services continuum by eliminating or reducing the funding stream to operate programs.

##### **P.L. 110-351 State Options**

Illinois is a leader in the relative guardianship field because it is one of the first states to utilize a Title IV-E waiver to create a subsidized guardianship program. The waiver demonstration program, approved in 1996, will expire in October 2009. The waiver demonstration program is for children who have been in state custody for one year and have lived with a prospective guardianship for at least one year. Reunification and adoption must be ruled out as permanency options<sup>8</sup>. Currently, the program supports mainly relatives; but children 12 years of age or older who are living with non-relatives are able to take advantage of the program. Children living with non-related caregivers who are under the age of 12 can participate in the program with special permission from the Guardian of the Illinois Department of Children and Family Services. Children in guardianship arrangements under the waiver are supported until their 18<sup>th</sup> birthday. If a child is still in high school the subsidy will continue until they graduate or turn 19, whichever happens first. A subsidy can also continue until 21 in the event that a child has severe special needs that are documented prior to the transfer of guardianship. The subsidy policy under the waiver mirrors Illinois adoption subsidy policy so that there was no financial incentive to choose one option over the other. Illinois plans on implementing the new Kin Gap option on November 1, 2009. When the federal guardianship assistance program is implemented some of the eligibility criteria will be different from that of the waiver in order to comply with the federal guidelines. For example, the program will only be available to children living in the homes of licensed relative caregivers and to children living with non-relatives who are 14 years of age or older.

Illinois currently support youth to 21 and plans to implement the new option under the Fostering Connections to Success Act once it becomes available in FY 2011. In 2008, there were approximately 1,520 youth ages 18 to 21 in state custody<sup>9</sup>. Illinois is one of the three states in which Chapin Hall has studied older foster youth and found that better outcomes occur when these youth stay in care longer instead of aging out at 18. Currently, foster youth may stay in care until age 19, regardless of their educational status. Some youth may continue to 21, but most decide to leave at 19. Illinois supports youth with state funds and the average subsidy payment for those caring for them is \$458. The court holds six-month reviews and annual review hearings<sup>10</sup>.

Illinois's fall intention is to support both foster care and adoptive children to age 21 as allowed under the Fostering Connections legislation effective 10/1/10.

#### **Illinois Tribes**

The state has no federally recognized tribes, although they are surrounded by states that do have tribes. There are occasions where tribal children's relatives are in Illinois.

#### **P.L. 110-351 Mandatory Provisions**

A comprehensive diligent search procedure supports Illinois' dedication to placing children with relatives. Within 48 hours of taking protective custody of a child or screening a child into care through the state attorney's office, the worker must look for parents as well as relatives or other significant persons of a child in Department custody for the purposes of finding the best and earliest placement for a child that will result in permanency or support for the family, or for day care and other assistance to intact families.

Caseworkers continue to seek relative placements if this option was not available at the time of removal. The Department is looking toward utilizing the New Family Connection Grants from the Fostering Connections and Increasing Adoptions Act that will connect children in or at risk of entering foster care to family members, including expanding Kinship Navigator programs that help link relative caregivers, both those caring for children in and out of foster care, to a broad range of services and supports for their children and themselves.

Illinois has a geographic information systems (GIS) application call "SchoolMinder" which is used for kids being placed into foster care. SchoolMinder helps children stay in their community and supports education stability; continuity of services (received from their school); and parental and family visitation. GIS technology helps identify available foster homes that are near both the child's current educational setting and the home from which he or she was removed. The state has been successful in keeping children in their schools of origin. However, the challenge for the state is that these homes become quickly occupied. The unintended benefit is that the state can now use GIS to focus its scarce foster parent recruitment and development efforts on just those communities that are most quickly exhausting their available foster parent resources. The current GIS-based recruiting effort, begun in January, 2009, is now seeing results. After a long decline, foster parent resources are now increasing and are currently at March, 2009 levels after a continual decline in resources that began when SchoolMinder was first implemented.

Illinois has a HealthWorks initiative. The HealthWorks of Illinois Program nurses work with foster parents of wards under the age of 6, offering services to ensure that the child is receiving adequate health care and services while in placement. Nurses also work with the Department of Children and Family Services (DCFS) caseworkers and private agencies, keeping them aware of the child's healthcare needs and of services the child may be receiving or need.

Like many other states, sibling connections are a priority for Illinois. The state is under a consent decree *Aristotle v. Samuels* that requires sibling visits and sibling placements when it is not possible to maintain them in the same home.

The state requires that each youth leaving care has a transition plan. Illinois policy requires that, six months prior to the youth's discharge date, the department must discuss the following with the child: employment, educational opportunities, job resume, housing, health care, counseling, health and life insurance, community resources, reference letters, and emergency contacts. Illinois has a grant from the National Quality Improvement Center regarding performance measures in transition plans. In Cook County, the court system has benchmark hearings where the youth and the judge are sitting at the table. Illinois is trying to take this program statewide.

Illinois has a foster care workgroup that serves as an advisory committee continues to look at both the options and mandatory provisions. The state anticipates only a small fiscal impact around the mandatory provisions.

#### **Family Connections Grants**

Illinois has applied for the Family Connections Grant and plans to use it for a Kinship Navigator program entailing a two-prong approach. If funded the grant money will support a "Central Call Center" where trained staff members will supportively work with relatives who call into the Center expressing a service need or support or both. In addition, through the Family Advocacy Centers, community based groups that provide support for parents to meet their goals, will provide a supportive staff member who will work with families and relative caregivers to help strengthen the family while protecting children.

At this time Illinois provides extended family support. The Extended Family Support Program is a statewide program that supports caregivers who are caring for related children outside the formal child welfare system. This intensive short-term

program allows children to live with family members without becoming involved with the child welfare system and offers caregivers support and services when they unexpectedly assume responsibility for related children. The services include: assistance in obtaining guardianship through probate court and in applying for a public aid grant; school advocacy; limited financial assistance per family for bedding, food, uniforms, or other appropriate services to stabilize the home; and help to access community resources and services as needed per family.

As a part of the Department's Lifetime Approach in providing services, the Department has a major initiative to improve the quality of life of children and youth in the Department's care by streamlining decision-making processes, delivering services earlier, shortening lengths of stay in residential and stabilizing out-of-home placements. The state operates a Child and Youth Invest Team (CAYIT) which is a team decision making model where multidisciplinary teams are full-time and regionally based that are responsible for assessing a child or youth's service needs, identifying the resources required to meet them and assisting the worker in accessing these services. The CAYIT staffings are convened whenever a child or youth's health or well-being is compromised or a less restrictive placement setting is required. The events that require a CAYIT staffing is often evidence that the child or youth's needs are changing or are not being met.

Illinois, in collaboration with the Midwest Child Welfare Implementation Center, will develop a Life Skills Coaching Program that will prepare children and youths between the ages of six and twenty for successful transition into adult self-sufficiency. The focus of this program will shift the paradigm of only training youth in care beginning at age 14 to additionally targeting caregivers (i.e., foster parents, relatives, group home staff) to learn how to provide developmentally appropriate life skills to children in their care within their home environment beginning at age 5.

#### Opportunities & Challenges

While the legislation creates opportunities to maximize federal dollars through Title IV-E claiming in areas that previously were unallowable, the commencement of these provisions occur either incrementally or at a later date, prohibiting the Department to access critical funds. One example is the state would like to take advantage of the claiming that will be allowable for the Department's programs that support older foster youth to age 21; however, the Department needs to wait until the claiming becomes allowable in FY 2011. Another example creates the opportunity to claim for training private sector employees; however this provision allows for claiming at rates that increase yearly where the claiming starts at a lower rate and then each year increases until it reaches the 75 percent rate. The private sector works with 80 percent of Illinois DCFS cases.

#### Conclusion

Illinois wants to take full advantage of the Fostering Connections Legislation, and was one of the first states who participated in the Subsidized Guardianship Waiver Demonstration program evaluating the impact of relative care. The state fully utilizes relative caregivers and this has a positive impact on reducing Illinois's caseload. Illinois's focus is on "Protecting Children while Supporting and Strengthening Families". In Illinois more than 70 percent of indicated cases occur based on neglect. Illinois plans to redesign the front end and focus on immediate early intervention services for families through the development of a Differential Response model to prevent children from coming into care and to work with families from a strength-based approach.

<sup>1</sup> Illinois Department of Children and Family Services Report: All Wards by Current Living Arrangement Category – Data as of 07/03/2009

<sup>2</sup> Illinois Department of Children and Families Services website.

<sup>3</sup> *Ibid*

<sup>4</sup> Children and Family Research Center: Disproportionality in Illinois Child Welfare, October 2008.

<sup>5</sup> Child Welfare League of America state data website.

<sup>6</sup> Conference call with Erwin McEwin on March 19, 2009.

<sup>7</sup> National Conference of State Legislatures (NCSL) website.

<sup>8</sup> Cornerstone Consulting Group: Child Welfare Waivers: Promising Direction, Missed Opportunities.

<sup>9</sup> Congressional Research Service (CRS): Youth Transitioning from Foster Care: Issue for Congress. February 12, 2009.

<sup>10</sup> *Ibid*.

Chairman MCDERMOTT. Thank you very much.

Our next witness is Jackie Johnson Pata, who is the executive director for the National Congress of American Indians.

Jackie.

**STATEMENT OF JACQUELINE JOHNSON PATA, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS**

Ms. PATA. Thank you very much.

On behalf of our country's tribal nations, NCIA, National Congress of American Indians, is pleased to present our testimony on the implementation of the Fostering Connections Act.

And I wanted to let you know that our testimony has been drafted in concert with the National Indian Child Welfare Association and the Association for American Indian Affairs, who we have been collaborating with on the implementation issues. And, of course, we look forward to working with this Subcommittee as the act is implemented, with consultation with tribal nations.

Of course, we have looked forward to this for a couple of decades, of trying to get tribal inclusion and access to Title IV-E, and so we were very excited around the inclusion. And I am going to talk a little bit about what some of our observations are about tribal nations, activities regarding the act, and also some challenges that we foresee in the implementation.

To date, we have 73 tribes who have signaled that they are interested in implementing the program and signed a letter of intent to the Children's Bureau. We have 15 tribal entities who have applied for the development grant that support the Title IV-E readiness activities for up to 2 years. And given the number of tribes that have participated in other kinds of similar Federal programs, like the TANF implementation one, that was eligible, this shows a very healthy response from Indian country and a great interest in moving forward to participate in these programs that we think are very critical to our communities.

We also have some challenges with these opportunities. But in the opportunities it creates, we have seen a lot of things happening as far as improved discussions with States as tribes and States work on collaborating how the implementation will be and who will take responsibility in the coordination. And so, we see an opportunity for improved cooperation and cooperative agreements.

We also see tribes engaging more in broad child welfare reform within their own communities, really talking about where we are with the seventh generation and how we are addressing our tribal children's needs.

And we are looking at additional tribal requests for technical assistance in implementing the program, particularly culturally relevant technical assistance that can help us adapt to our community structures. And then we have been having forums at the national level with strategies on implementation and trying to share the information and best practices.

Some of the tribes, a couple of the tribes, see this as an opportunity for totally revamping and really making some meaningful system changes. Currently, the Navajo Nation, the largest nation in this country, and my own tribe, the Tlingit and Haida tribes of

Alaska, are two examples who are seeking this as an opportunity for total revamping or really re-evaluating our systems.

And even though, you know, one of the greatest challenges, of course, that all tribes are really having to take time to assess is the in-kind contributions. And I think that, you know, we will talk a little bit about that, but the match requirement and the challenges that gives for tribes, particularly without really knowing some of the nuances of how those regulations will be developed, so what will be an eligible match or not.

And given the current, as you heard from the State directors, the current economic conditions of the country affect tribal nations the same way. We are trying to get the additional matches that are necessary for us to implement these kinds of programs.

We are looking for opportunities that this act helps our communities. We know that we will have to deal with tribal court and code reform. We will have to deal, as I said before, with culturally relevant appropriate technical assistance at the local level, but clearly developing for the first time the kinds of data and accounting systems that are necessary for our coordination, either with our State parties or for reporting requirements to HHS. And so, we have been doing a lot of work, our organization, with other organizations, looking at existing systems in tribes that receive Federal assistance and how that data reporting works and how we can look at streamlining those data systems to make them work in our tribal communities.

But we also know that it is going to be important for HHS and the Children's Bureau to be very responsive to the unique needs in tribal communities, and so we are looking forward to developing forums of ongoing dialog as we talk about program implementation and policy development. We want to be able to make sure that we utilize the expertise in Indian country and that their voice is heard within the Department as they develop their policy regulations and that we adequately understand the agency's requirements and expectations.

But when we get into some of the implementation challenges, of course we were glad that the Committee and Congress made sure that tribal consortias were eligible to apply—that is a good forum for us—protecting tribal children's eligibility for services when they switch from States to tribal or to direct funding, tribal direct funding.

But we also know that, as I said earlier, the sufficient non-Federal sources to meet the match requirement is probably going to be one of the biggest barriers for tribes as we deal with the implementation. I remember when my own tribe was one of the first ones to take on the TANF programs, and we struggled, as a tribe, being able to meet the match. We are Alaska tribes with very few resources for our own programs, our own citizens' programs that we need to do.

And, also, securing the development of compliant automated data systems.

And then, also, the unique tribal service delivery issues with the multi-State needs of Navajo Nation, for example. It is over three States, and so that nation will have to address the requirements of three States. Or perhaps maybe we will be able to work out some

flexibility with HHS or re-address or re-evaluate some flexibility to be able to make sure that they could have a program that is consistent throughout their nation but still meet the requirements that the States will also need. So there will be some conversations that we need to deal with that.

And then, of course, securing the development grants for timely—to be able to assist in the program readiness. Right now, with 15 tribes already indicating that they would like to apply for those funds, that means only a third of those tribes will be eligible to receive the development funds, which means that we will have to wait another 2-year cycle before the next third could be eligible. And so we are looking at a very slow implementation for tribes unless we are able to deal with the resources.

And then, as I said earlier, once again, going back to the in-kind match, being able to make sure that when HHS develops the regulations, that we are able to broaden the use of those match requirements in the regulations.

But I would like to thank you very much for making sure that tribes were included in this legislation. It was a landmark for us. We think it is really going to change the way that we deal with the welfare of our Indian children. Thank you.

[The prepared statement of Ms. Pata follows:]

**Statement of Jacqueline Johnson Pata, Executive Director, National Congress of American Indians (NCAI)**

On behalf of our country's tribal nations, the National Congress of American Indians (NCAI) is pleased to present testimony on Implementation of the Fostering Connections to Success and Increasing Adoptions Act. The recommendations that we are making are supported by the National Indian Child Welfare Association and the Association of American Indian Affairs, with whom we collaborate on this and other child welfare matters. We look forward to working with this Subcommittee to ensure that the critical programs and initiatives authorized and supported by this body are implemented with effectiveness in consultation with tribal governments.

This Act authorizes tribes, for the first time, to receive administer the Title IV-E federal programs for foster care and adoption assistance. While tribal governments are not eligible to receive reimbursement from Title IV-E under this law until October 1, 2009, there has been increasing interest from tribal governments to prepare for implementation of this important new funding and service opportunities for their children, families and communities. The work of the Ways and Means Committee along with this Subcommittee was crucial to the enactment of this new law and the many benefits we see beginning to take shape. In particular, we want to recognize the leadership of Chairman McDermott, former Ranking Member Weller, Representative Pomeroy, and Representative Camp. Through their support, the Fostering Connections to Success and Increasing Adoptions Act authorizes tribes to directly administer the Title IV-E Foster Care and Adoption Assistance programs.

NCAI has facilitated numerous tribal discussions regarding implementation of the Act. This testimony reflects our observations on tribal activities regarding the Act and some of the challenges to tribal participation in the Title IV-E program. Not since the 1978 enactment of the Indian Child Welfare Act has there been a federal law with such potential for positively transforming tribal child welfare services for American Indian and Alaska Native children.

As the number of tribal governments participating in the Title IV-E program increases, we anticipate that the number of our tribal children achieving permanency will also grow significantly.

**Implementation Achievements**

While at this early stage in the process, there are not any tribes directly administering the IV-E program, there are good indications of interest and progress being made towards tribes successfully applying to directly administer the Title IV-E program. As of the date of this hearing, approximately 73 tribal entities have signaled their interest in submitting a plan to operate the Title IV-E program through let-

ters of intent provided to the Children's Bureau. These tribal entities include singular tribal governments, tribal organizations, and tribal consortia. They represent tribal entities from seven out of the ten federal regions in the United States. In addition, 15 tribal entities have submitted grant applications for the development grants authorized under the law that provide tribes with funding to support their Title IV-E readiness activities for up to two years. Given the number of tribes that applied to operate similar federal assistance programs after they have become available for the first time, including Temporary Assistance for Needy Families and Child Support Enforcement, these numbers represent a healthy tribal interest and movement towards participating in the Title IV-E program.

Other areas where there are indicators of progress in implementing the new law include:

- Increased discussion with states on collaboration regarding Title IV-E;
- More tribes engaging in broad child welfare reform within their communities;
- Additional tribal requests for technical assistance on implementing the Title IV-E program; and
- Forums and workgroups being formed to facilitate discussion of implementation issues and development of tribal strategies for addressing these issues.

Since enactment last October, states and tribes have been engaged in discussions regarding the opportunities present in the new law, the role of each government in supporting greater access to IV-E services to tribal children, and new strategies for increasing tribal support to operate the program directly. In several states there have been discussions about states continuing—and even increasing—tribal access to state Title IV-E resources, including funding to meet non-federal match requirements and data collection systems. Some tribes are considering contracting with state or county agencies to perform certain specific IV-E functions with the tribe as the lead applicant, such as eligibility determinations, and others are looking at mutually beneficial training activities authorized under the law. Another important area of collaboration is information sharing between tribes and states to help tribal children maintain their eligibility for health and other services provided under other federal or state programs. Memorandums of Understanding and intergovernmental agreements are being discussed and will likely be available for broader dissemination in the future.

One of the barriers for tribal governments engaging in large-scale child welfare reform has been the absence of a solid funding base. With the opportunity to access Title IV-E funding many tribes can now consider meaningful systems change. Two tribal nations that are engaged in child welfare reform and have expressed an interest in applying for Title IV-E directly are the Navajo Nation and the Tlingit and Haida Indian Tribes of Alaska. Both tribes are working with the National Indian Child Welfare Association through the Administration for Children and Families' Western and Pacific Implementation Center ([www.wpic.org](http://www.wpic.org)), which is part of the Children's Bureau technical assistance network. These tribes were selected for participation from among a number of applicants, including states, counties and tribes. They will be required to evaluate their entire child welfare system, including current and proposed funding sources like Title IV-E, and plan and implement system changes to improve outcomes for their tribal children and families. The systems reforms they are planning now will help them become better prepared to operate the IV-E program directly and potentially become a model for other tribes. Without the potential access to Title IV-E, it is unlikely that these tribes could have undertaken these extensive efforts.

A number of national organizations, both Indian and non-Indian, have come together since last October to provide forums for discussion of key implementation issues, such as strategies for culturally-appropriate technical assistance, tribal court and code reform, and resources for developing tribal IV-E data systems. The organizations include National Congress of American Indians, National Indian Child Welfare Association, Association on American Indian Affairs, Casey Family Programs and Child Welfare League of America. Together they have provided over 20 technical assistance events for tribes both regionally and locally, developed a number of critical written resource materials for tribes, and have often consulted with state and federal agencies on Title IV-E implementation matters. These collaborations have been provided without federal support and are continuing today.

Several regional Indian organizations, including the All Indian Pueblo Council in New Mexico and the Indian Child and Family Resource Center in Montana, have been providing technical assistance and helping tribes assess their readiness to operate the Title IV-E program. In addition, we have witnessed a number of states holding forums to discuss implementation issues and offer technical assistance to tribes when requested.

Tribes have also had good access to the Children's Bureau through regional forums and conference calls regarding the new law and program requirements of Title IV-E. The Children's Bureau, like many of the technical assistance providers, has a steep learning curve in preparing for implementation of the law, but has provided quick responses to issues that have been raised by tribes and Indian organizations. The Children's Bureau has a key role in helping tribes with implementing the IV-E programs. This role includes being responsive to unique tribal needs, utilizing the expertise and knowledge in Indian Country, and adequately explaining their agency's requirements and expectations.

### **Implementation Challenges**

Congress anticipated several of the challenges that tribes might have in trying to implement the IV-E program and included specific provisions to address those issues, such as making tribal consortia eligible to apply, protecting tribal children's eligibility for services when tribes switch from an agreement to direct funding, and establishing tribal-specific technical assistance. However, some additional challenges for tribes are starting to appear. The top challenges currently are:

- Identifying sufficient non-federal match sources to meet IV-E requirements;
- Securing the development of a Title IV-E compliant automated data system;
- Managing unique tribal service delivery issues that were not contemplated in the IV-E program; and
- Securing a development grant in a timely manner to assist program readiness.

*Match Requirements.* A key challenge for tribal governments who are considering operation of the Title IV-E program is meeting the non-federal match requirements. Even with the allowances for the use of third party in-kind sources and expanded cash match sources many tribes are finding it difficult to identify sufficient match sources. This is not a measure of tribal commitment to the operation of foster care services or lack of capacity to effectively run the IV-E program, but rather a reflection of the economic realities that many tribes face. With unemployment rates in many tribal communities above 20% and poverty rates well above the national average, many tribes' ability to generate unrestricted general revenue is extremely limited. This is especially true for those tribes that are in more geographically isolated rural areas where economic and job development opportunities are scarce. As has been the case with the TANF program, tribes that have been able to take advantage of this program are usually those tribes that either have enough of an economic base to match federal payments or have been able to secure matching funds from states. While there are benefits for states to provide funding to help tribes participate in federal programs and serve their community members, a number of states with tribes in them do not provide this support.

The Fostering Connections Act provides some use of in-kind funds for tribes to use as a non-federal match, and gives DHHS until October 2011 to implement final regulations. In light of the difficulty for tribes to identify sufficient match funds, we urge that the final in-kind regulations be as broad as possible so as to eliminate any unnecessary limitations that are hindering the Act's effective application. We appreciate that Congress provided this flexibility with regard to the final tribal in-kind regulations and urge you to monitor this issue.

*Data Systems.* Title IV-E requires tribes and states to collect and submit required data via an automated data system. State experiences with this task indicate that development of this data system can be both very expensive and time consuming. One larger tribe recently told us that even with a \$300,000 development grant they could easily spend all of the development grant, and more, getting a comprehensive system in place, and that it would take the full two years or more to develop and successfully test the system. As tribes consider whether to apply for and accept development grant funding, the ability to create a viable data system looms very large. Tribes are exploring their options, and organizations like the National Congress of American Indians and National Indian Child Welfare Association are trying to assist tribes through the creation of written materials and development of open source data system software that any tribe could use without expense. In addition, the National Congress of American Indians is developing a report and guidance on data system issues for tribes examining the option of operating the IV-E program. The Children's Bureau has indicated that they will soon be issuing data system protocols for tribes that will clarify some of the questions, including whether tribes could collect and report data using simplified electronic spreadsheet software. Nonetheless, many tribes are interested in developing a more comprehensive system similar to the State Automated Child Welfare Information System (SACWIS) that provides

more coordinated information collection across all child welfare service areas and is available for greater federal reimbursement under IV-E.

*Unique Tribal Service Delivery Issue.* Tribal service delivery and jurisdictional realities are very different than those for states, which creates unique challenges in meeting IV-E requirements and managing the program as effectively and efficiently as possible. As an example, several tribes have tribal lands in more than one state. Because Fostering Connections requires that individual tribal children's eligibility is based upon the state from which they were removed, tribes with reservation lands in more than one state will have to manage differing eligibility standards for their children, making program administration complicated and inefficient. These types of challenges could be relatively easily addressed if the Children's Bureau had the flexibility to issue waivers to address these types of non-safety issues.

*Development Grants.* Title IV-E is an admittedly complex and administratively time-consuming program to operate—even for states. Tribes have been working diligently to evaluate their readiness and construct plans for getting their programs and communities ready to operate this important program. For most tribes, this means securing a development grant authorized under the Fostering Connections Act to assist them in many of the readiness activities needed to successfully apply for and operate the program. However, the Children's Bureau estimates that only five tribal development grants a year will be available. With 15 applicants this year, even under the best circumstances a third of these will have to wait an additional two years before beginning their readiness activities and another two years before they will likely be able to submit an application for approval. For the children that need these services now, the wait to get these services and protections is critical barrier.

### Conclusion

The opportunities for tribal governments under the Fostering Connections to Success and Increasing Adoptions Act have the potential to transform child welfare services for tribal children and families in several significant ways. Creating access to new funding to support permanency services, helping provide support for new data systems, training of care providers and agency staff, and helping tribal governments fulfill their governmental responsibility to serve their communities are some of the most important. As we have seen in other federal programs, tribal governments are ready to apply their expertise and knowledge of their community to develop the most effective programs for their children. We thank you for the opportunity to share our observations regarding the progress tribes are making in implementing the Title IV-E program, and we appreciate this Subcommittee's support and leadership in these crucial matters.

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Chairman MCDERMOTT. I did not point out that the committee is joined by one of the Members of the Full Committee, Earl Pomeroy from North Dakota, who is one of those who was very often bending my ear on this issue.

Ms. PATA. Yes. And in my written testimony, we definitely mention that, Earl Pomeroy, and certainly Congressman Camp and yourself, who have been very, very instrumental in helping us be included. Thank you.

Chairman MCDERMOTT. Thank you for your testimony.

Our next witness is Margaret Anderson.

I understand you are called "Greta."

Ms. ANDERSON. Yes.

Chairman MCDERMOTT. So we will welcome your testimony.

She is a former foster youth and college student in Wisconsin—

Ms. ANDERSON. Correct.

Chairman MCDERMOTT [continuing]. And is going to tell us how it actually works on the ground.

So, Greta, you are on.

**STATEMENT OF MARGARET “GRETA” ANDERSON, FORMER  
FOSTER CARE YOUTH AND COLLEGE STUDENT, EAU CLAIRE,  
WISCONSIN**

Ms. ANDERSON. Okay.

Chairman McDermott, Ranking Member Linder, and Members of the Subcommittee, I am honored to be given the opportunity to share my story with such impactful and inspiring people today. So, really, thank you for having me.

Among the 14 Members of Congress on this Subcommittee, you have nearly 40 children—that is a lot—and a few grandchildren, too, from what I hear.

Chairman MCDERMOTT. You have been looking on our Web sites.

Ms. ANDERSON. That is right.

But, in reality, as citizens and as elected officials, you also act as Mom and Dad for the half-million children and young adults in foster care, and I am one of them.

My name is Greta Anderson. I am 21 years old and was a foster youth in Wisconsin. I am proud to say that I am currently a junior at the University of Wisconsin-Stout, but my educational outlook wasn't always so rosy.

Much of my high school education was attained in hospitals. I attended nine different schools during my high school career, and six of them were in hospital-like treatment facilities. A school in a treatment facility meant a room designated for us to do homework catch-up in, not a classroom where I would be attaining the same knowledge as my peers. Consequently, to graduate with my class, I took summer school every summer, as well as attending night classes 3 days a week on top of a part-time job my senior year.

With this scattered educational experience, the most I could do was to concentrate on finishing high school. When I applied for college, I did so on a whim. I thought my high school career had been too messy to ever be considered college material until a school counselor told me that I should write a strong essay, fill out an extenuating circumstances form, and apply anyway.

I took the ACT in June 2006, and, after seeing that I did well enough to get accepted, I applied for college in July. I received a scholarship from Wisconsin's Department of Children and Family Services in August and officially decided to start school that September. I had no idea how I would finance the following years of my education; I just knew that if this was my ticket out I wanted to give it my best shot.

When I was placed into guardianship with a relative at age 16, many of the problems that had initially led to my removal from my family were better, but they weren't gone. I felt gyped. I didn't get the help youth who aged out of the foster care system got, but I also lacked the financial support from my biological family, meaning I was left to support myself.

At a Wisconsin Youth Advisory Council meeting in October of last year, my State independent living coordinator did a presentation called, “Exciting New Legislation.” When I learned how the Fostering Connections Act would impact all youth in care after the age of 16, I was ecstatic. I remember turning to the girl next to me and excitedly saying, “This is going to change my life.”

When the “Fostering Connections to Success and Increasing Adoptions” legislation was passed, it made it possible for young people across the country who find permanence through guardianship to retain their eligibility for services through their independent living program, including support for higher education.

This year was the first time my estimated family contribution on my FAFSA coincided with the actual financial contribution my family is able to make: \$0. Access to Chaffee funding and services make it possible for me to concentrate on my studies and not be faced with choosing to drop out to support myself with minimum-wage jobs. Doors have opened because now I am eligible for many more potential grant and loan opportunities.

My first year of college was the first time I had been allowed to focus on something bigger than merely surviving, and, although I liked it, it was an adjustment. I didn’t know how not to worry about my family, and although I had emotional intelligence, I lacked a strong foundation in logic-based classes, such as math and science. College was the first chance I had to receive a normal education, not one interrupted by placement changes, meetings with social workers, and court dates.

The college experience is one every foster youth deserves. Had I not received the additional financial support made possible by the Fostering Connections Act, it would have been very easy for me to wallow in self-pity about the educational opportunities that were not available to me. This semester is the first where I will not be taking out the maximum amount in student loans for living expenses. And when I graduate from college, I will be in a stronger position to tackle adulthood.

Over this past summer, I have had the opportunity to intern as a FosterClub All-Star. I led conferences aimed at youth empowerment, showing them there is life after foster care and that it can be more and better than they ever dreamed. To be able to tell foster youth that there are opportunities out there gives kids without a lot of hope something to hold on to.

I have met so many of my brothers and sisters of the system who are hungry for a better future, and you are opening that door for them. In one of our workshops, FosterClub asks foster youth who plans to go to college and they raise their hand. We always get an overwhelming response. Usually at least 90 percent say “yes.” It is hopeful to know that foster youth do indeed aspire to pursue their educational dreams.

But we all know that the statistics don’t reflect those dreams being reality for most foster youth. Foster care and circumstances that lead to it place obstacles in our path that don’t always exist for our peers. The fact that even 3 percent of foster youth are going to college is a testament to foster kids’ resiliency. I feel like the question that we need to be asking is not, “Why youth are failing?” but, more important, “Why do some foster youth succeed? What resources are they using? And how can we help even more foster youth succeed?”

For the past 2 years, I have traveled to my State capitol with the Youth Advisory Council to advocate for extending foster care until 21 in Wisconsin. When I spoke to legislators prior to the passing of the Fostering Connections Act, I was often told, “Yes, we agree,

but where is the money coming from?” For the first time last year, I was able to tell them that the Federal Government would support State legislators’ decision with funding, and they were much more receptive.

It has been shown through research, which was mentioned earlier, that youth in States where foster care goes until 21 are succeeding at much higher rates. And because of this legislation, many States are going to be better prepared to offer their youth that chance at success.

This year marks the 10th anniversary of the “Foster Care Independence Act,” which established the Chaffee program and created new opportunities for youth aging out of foster care to achieve their goals and dreams. The Fostering Connections Act builds on the legacy of Chaffee to expand opportunities to more foster youth and allows States to truly foster our potential as a parent would.

Thank you for supporting me and my 513,000 brothers and sisters of the system.

[The prepared statement of Ms. Anderson follows:]

**Statement of Margaret “Greta” Anderson, Former Foster Care Youth and College Student, Au Claire, Wisconsin**

Chairman McDermott, Ranking Member Weller, and Members of the subcommittee, I am honored to be given the opportunity to share my story with such impactful and inspiring people today.

Among the fourteen Members of Congress on this subcommittee, you have nearly 40 children, and probably a few grandchildren, too. In reality, as citizens and as elected official, you also act as mom and dad for the half million children and young adults in foster care. I am one of them.

My name is Greta Anderson. I am 21 years old and was a foster youth in Wisconsin. I am proud to say that I am currently a junior at the University of Wisconsin—Stout, but my educational outlook wasn’t always so rosy.

Much of my high school education was attained in hospitals. I attended 9 different schools during my high school career and six of them were in hospital-like treatment facilities. A school in a treatment facility meant a room designated for us to do homework catch-up in, not a classroom where I would be attaining the same knowledge as my peers. Consequently, to graduate with my class, I took summer school every summer as well as attending night classes three days a week on top of a part-time job my senior year.

With this scattered educational experience, the most I could do was to concentrate on finishing high school. When I applied for college, I did it on a whim. I thought my high school career was too messy to ever be considered college material until a school counselor told me that I should write a strong essay, fill out an extenuating circumstances form, and apply anyway. I took the ACT in June 2006, and after seeing that I did well enough to get accepted, I applied for college in July. I received a scholarship from Wisconsin’s Department of Children and Family Services in August and officially decided to start school that September. I had no idea how I would finance the following years of my education; I just knew that if this was my ticket out, I wanted to give it my best shot.

When I was placed into guardianship with a relative at age 16, many of the problems that had initially lead to my removal from my family were better, but not gone. I felt gypped; I didn’t get the help youth who aged out of the foster care system got, but I also lacked the support from my biological family, meaning I was left to support myself.

At a Wisconsin Youth Advisory Council meeting in October of last year, my state Independent Living Coordinator did a presentation called, “Exciting New Legislation!” When I learned how The Fostering Connections Act would impact all youth in care after the age of sixteen, I was ecstatic. I remember turning to the girl next to me and excitedly saying, “this is going to change my life . . .”

When the Fostering Connections to Success and Increased Adoptions legislation was passed, it made it possible for young people across the country who find permanence through guardianship to retain their eligibility for services through their Independent Living Program, including support for higher education. This year was the first time my Estimated Family Contribution on my FAFSA coincided with the

actual financial contribution my family is able to make—zero dollars. Access to Chafee funding and services make it possible for me to concentrate on my studies and not be faced with choosing to drop out to support myself with a minimum wage job. Doors have opened because now I am eligible for many more potential grant and loan prospects.

My first year of college was the first time I had been allowed to focus on something bigger than merely surviving, and although I liked it, it was an adjustment. I didn't know how not to worry about my family, and although I had emotional intelligence, I lacked a strong foundation in logic-based classes such as math and science. College was the first chance I had to receive a "normal" education, not one interrupted by placement changes, meetings with social workers and court dates.

The college experience is one every foster youth deserves. Had I not received the additional financial support made possible by the Fostering Connections Act, it would have been very easy for me to wallow in self-pity about the educational opportunities that were not available to me. This semester is the first where I will not be taking out the maximum amount in student loans for living expenses,, when I graduate from college, I will be in a stronger position to tackle adulthood.

Over this past summer, I had the opportunity to intern as a FosterClub All-Star. I led conferences aimed at youth empowerment, showing them that there is life after foster care and it can be more and better than they ever dreamed. To be able to tell foster youth that there are opportunities out there gives kids without a lot of hope, something to hold on to. I've met so many of my brothers and sisters of the system who are hungry for a better future, and you are opening that door for them. In one of our workshops, FosterClub asks foster youth who plan to go to college raise their hand. We always get an overwhelming response—usually at least 90% say "YES." It is hopeful to know that foster youth do indeed aspire to pursue their educational dreams.

But we all know that the statistics don't reflect those dreams becoming reality for most foster youth. Foster care and the circumstances that lead to it place obstacles in our path that don't exist for our peers. The fact that even 3% of foster youth are going to college is a testament to foster kids' resiliency. I feel like the question we need to be asking is not why youth are failing, but, more important, why do some foster youth succeed? What resources are they using? How can we help even more foster youth succeed?

For the past two years I have traveled to my state capitol with the Youth Advisory Council to advocate for extending foster care until 21 in Wisconsin. When I spoke to legislators prior to the passing of The Fostering Connections Act, I was often told, "Yes, we agree. But where is the money coming from?" For the first time last year I was able to tell them that the Federal Government would support state legislators' decision with funding, and they were much more receptive. It has been shown through research that youth in states where foster care goes until 21 are succeeding at higher rates, and because of this legislation many states are going to be better prepared to offer their youth that chance at success.

This year marks the tenth anniversary of the Foster Care Independence Act, which established the Chafee Program and created new opportunities for youth aging out of foster care to achieve their goals and dreams. The Fostering Connections Act builds on the legacy of Chafee to expand opportunities to more foster youth, and allows states to truly "foster" our potential as a parent would. Thank you for supporting me and my 513,000 brothers and sisters in foster care.

Greta Anderson  
Wisconsin

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Chairman MCDERMOTT. Thank you very much for your testimony.

Ms. ANDERSON. Thank you.

Chairman MCDERMOTT. Ms. Linda Spears is the vice president for policy and public affairs for the Child Welfare League of America.

Ms. Spears.

**STATEMENT OF LINDA SPEARS, VICE PRESIDENT, POLICY AND PUBLIC AFFAIRS, CHILD WELFARE LEAGUE OF AMERICA, ARLINGTON, VIRGINIA**

Ms. SPEARS. Thank you, Chairman McDermott.

I have to start by thanking Greta for her wonderful words that bring this to reality so that we all understand the concrete nature of the benefits that this program can bring to young people.

I also want to thank the chairman, Ranking Member Linder, and Members of the subcommittee for their stellar work in this regard and for having this hearing today and inviting us to testify.

As you all know, this legislation was passed in 2008 to bring some of these agenda items to the fore. I will not go through a detailed review of each and every piece of the bill, but I do want to highlight for you some of the momentous concerns that we have and some of the progress that we think is being made on the legislation.

As you know, provisions of the bill call for improvements in services to youth in transition, like this young lady sitting next to me; improvements in kinship care and guardianship; educational awareness and educational programming; health care and adoptive services. As you know, each of these pieces is phased and will take some time to implement, and many States are struggling with implementation.

As of October 1st, the legislation will take one important step, and that is that it will replace—I am going to start where others didn't, which is to start with the delink, so we talk about it.

As of beginning October 1, the legislation will take one small but important step in beginning to replace the outdated eligibility requirements that now exist in Title IV-E by phasing out the eligibility link between special-needs adoptive children and the non-existent Aid to Families with Dependent Children program.

We are looking forward to the completion of this work because we believe that this should be extended beyond this to also cover eligibility for children in kinship care and in foster care eligibility in the same way. CWLA appreciates the recent action of a Member of this Subcommittee, Congressman John Lewis, for his recent introduction of H.R. 3329, which addresses this challenge, and we look forward to working with him and this Subcommittee on this further.

Positive developments that I want to talk about in regards to implementation: This legislation is historic in its reach and its nature. The new policies come, however, at a time, as we have already mentioned, that is filled with challenges, as the Nation faces a severe recession. And States are having to enact cuts in not only court child welfare services, but across a spectrum of programs that affect children and families.

States in recent years have relied on a range of Federal funds to address child welfare service system needs. Two of these are TANF and the Social Services Block Grant, which have respectively provided 19 and 12 percent of the total Federal funds used for child welfare. These two block grants have also been under demand as States look to address the concerns created by their straining State budgets. As a result, many States have not been able to adopt the full provisions that have been required under the new law.

An additional challenge that we are facing in implementation is the challenge of transition from one administration to the other, as has already been referenced. Recent history tells us that these transitions take longer and longer after each changeover. The end result of Fostering Connections has been delay in guidance that is needed by the States to do the implementation work that they need. As Secretary Donald talked about, many of the requirements and guidance that she would like to have she is still waiting for.

CWLA believes that such an expansive and important reform requires an aggressive promotion and training by HHS in regard to what States can and should do in implementing the law. We find that, as we talk with our Members, public and private, across the country, that they are eager to learn about the new law and how the policy changes that it encourages can be implemented based on best practice models. But we feel that nothing carries the leadership weight of the HHS in providing some guidance and clarity around these issues.

It is encouraging to see that some of the policy changes are beginning to take place despite barriers that may be in their way. As of last week, the Children's Bureau indicated that seven States, plus the District of Columbia, have filed plan amendments to extend Title IV-E funding to kinship subsidized guardianship. These States are Connecticut, Maine, Missouri, Oregon, Pennsylvania, and Rhode Island, whose request has been approved, along with Tennessee.

In addition, through our informal surveys and our conversations with other partner organizations like American Public Human Services Association and our discussion with our Members, we know that Illinois, Michigan, Oklahoma, Massachusetts, Alaska, and New Mexico are among the States who have expressed interest and are pursuing consideration for how they can move forward on the kinship option. We expect more States to take direct action on this as the debate settles and as guidance is provided in greater detail.

Initial guidance in regard to States taking the kinship option would suggest that current kin families covered by the State funds and other Federal funds, such as TANF, may not be eligible for future Federal funding under the new kinship option, even if the child is IV-E eligible and met all the other conditions set out in the law when he or she was placed.

We urge Congress to work with the Administration to address the possibility that some of these current kinship families would, in fact, be eligible for Federal funding after the State has taken the guardianship option. Clarification of this and other possible issues will help States to assess their options and to implement the new provisions.

Some guidance may also be needed with regard to how to structure guardianship assistance payment and the process for establishing and adjusting such agreements, as well as the relative consultation process.

Since many States use TANF through child-only grants, we hope that by taking the IV-E option that the decisionmaking around the use of this program will not be limited to whether or not there is only a financial advantage in TANF or IV-E but whether or not

the program choice meets the best interests of the family and the child.

An additional provision that has taken effect addresses the educational stability and requires that, as part of casework plans, that when it is in the student's best interest he or she remain in the same school, even if that child resides in another school district's boundaries.

Recently, States like Pennsylvania and Missouri have taken new steps to address the education needs and rights of children in foster care.

Missouri's Department of Elementary and Secondary Education sent out instructions to school administrators based on the new legislation and a State bill called State Bill 291, the Foster Care Education Bill of Rights, which requires schools to designate an educational liaison for children in foster care. The child has rights outlined in the Federal act to remain in or near his home school, and it outlines options to address the cost of transportation for these children.

In Pennsylvania, as a result of the new law, the State issued new guidance in January that, among other issues, addresses the previous prohibitions on children living outside school district lines from continuing to attend the same school. In this guidance, the State urges local education agencies to develop policies and agreements to address these issues.

While we are supportive of the requirement, to be truly effective, equal responsibility needs to be placed on school and local education, as well as child welfare. Amending the "Elementary and Secondary Education Act" will highlight for educators how important it is that the needs of this population be addressed. We also urge that, once the leadership is confirmed in both the Department of Education and Health and Human Services, that they issue joint guidance to the States to make sure that these provisions are carried out.

We also are looking at the transition planning, et cetera. We feel it is vital that we make sure that transition planning requirements continue to be monitored. We believe that many States have in place the frameworks available to them to do this because of the requirements under Chaffee and prior law. We want to make sure that we are able to monitor that and to make sure that that happens appropriately.

A final element that I will want to talk about just a half a second—I know I am exceeding my time, sir—is the health planning requirements that were also put into place under the bill. These new requirements build on what was already in law to strengthen health access and health services for kids, making sure that kids in care are screened and that the services they need are delivered, and includes better tracking and monitoring of the use of medication.

Studies indicate that between half and a third of children in foster care exhibit behavior and social competency problems that warrant mental health care. We are not really sure how well and how much increased coordination and planning between State child welfare and Medicaid agencies has yet taken place. But a recent letter by the American Academy of Pediatrics states that, based on their

work with individual chapters, it does not appear that the new requirements of the law are being fully met.

We urge that when HHS issues its new pre-print, which is the form that they submit the 5-year plan on, that we be more specific in its direction to States regarding the requirements around planning and consultation that can take place. This will help ensure that the services in the law, including screening, monitoring of care, and medication tracking and medical records tracking, are carried out.

And, finally, I just want to make mention of two things. One is that we know that the needs of this bill have taken us very, very far, but there are still areas that we need to address, and that is the prevention of child abuse and neglect. We encourage the support and continued work on home visitation and other prevention programs that are out, so that we can begin to learn, know, and do more that is outcome-based to prevent child abuse and neglect as we move forward.

[The prepared statement of Ms. Spears follows:]

**Statement of Linda Spears, Vice President, Policy & Public Affairs, Child Welfare League of America, Arlington, Virginia**

The Child Welfare League of America (CWLA) is a ninety year-old non-profit organization representing hundreds of state and local child welfare organizations including both public and private, and faith-based agencies. CWLA members provide a range of child welfare services from prevention to placement services including adoptions, foster care, kinship placements, and services provided in a residential setting. CWLA's vision is that every child will grow up in a safe, loving, and stable family and that we will lead the nation in building public will to realize this vision.

Chairman McDermott, Ranking Member Linder and Members of the Subcommittee on Income Security and Family Support, CWLA thanks you for inviting us to testify today about the important legislation passed by this Subcommittee last year, legislation that resulted in a significant new law on child welfare.

*Historic Legislation*

Last fall, Congress enacted and President Bush signed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections to Success, P.L. 110-351). CWLA believes this legislation is the most significant federal child welfare legislation enacted in at least a decade—if not since the creation of Title IV-E foster care and adoption assistance in 1980.

Chairman McDermott, CWLA thanks you for your leadership last year and for your continuing interest and dedication to addressing the needs of abused and neglected children and all families that come into contact with our nation's child welfare system. Members of this subcommittee, and key leaders including former Congressman Jerry Weller, the Senate Finance Committee and the staff of this subcommittee working across house and party lines can be proud of your efforts and accomplishments in passing P.L. 110-351. This law, when fully phased in and implemented at the state and local level, will have a significant and positive impact on outcomes for children and families facing crisis. It takes a major step forward in kinship care. It will increase special-needs adoptions across the country. The new law begins the critical task of focusing on the overrepresentation of some minority populations in child welfare by providing federal funding to some kinship families and by allowing direct access to tribal governments—and, by extension, to children in Indian country. Under the law youth aging out of foster care will be better served. It also holds the promise of improving education and health care for children in care and offers the promise of moving this nation, at least in some small way, toward a sounder workforce development policy in the area of child welfare.

*Background on Important Policy Changes*

After many years of debate, some experimentation by states and a patchwork of financing, Congress has now given states the option to use federal Title IV-E funds for kinship guardianship payments for children raised by relative caregivers. Children eligible under this provision must also be eligible for federal foster care maintenance payments, must reside with the relative for at least six consecutive months

in foster care, and it must be determined that reunification is not possible and adoption is not appropriate. It also clarifies that under current guidance, states may waive non-safety licensing standards (as determined by the state) on a case-by-case basis in order to eliminate barriers to placing children with relatives. State agencies must exercise due diligence to identify and provide notice to all adult relatives of a child within 30 days after the child is removed from the custody of the parent(s).

A second significant policy area that is addressed in several ways is youth transitioning from foster care to independence. A year from now, states will have the option to extend care to youth age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood. Importantly, the law also attempts to strengthen the current transition planning requirements by requiring states to engage youth more directly in planning and addressing their needs after they leave foster care. By requiring child welfare agencies and caseworkers to help youth develop a transition plan during the 90-day period immediately before a youth exits from care and directly addressing specific issues such as continued access to health care, job training, education, housing and other vital services, we can—if properly implemented—assure better outcomes for the more than 26,154<sup>1</sup> youth who currently “age-out” of foster care.

One of the most momentous parts of the new law will begin to take effect in a few weeks, on October 1, when tribal governments and consortia will be allowed to apply directly to HHS to operate their own Title IV–E foster care, special needs adoption, and kinship care programs. These provisions were debated and sponsored in Congress for many years and CWLA is pleased they are included in the final law. Along with the kinship care provisions, this can be an important tool to help address the challenge of overrepresentation of certain populations in our nation’s child welfare system. These changes also begin to address a long-time inequity in access and funding that tribal communities have faced for many years.

Also significantly the legislation takes one small but important step in beginning to replace the outdated eligibility requirements that now exist in Title IV–E by phasing out the eligibility link between special needs adoption children and the non-existent Aide to Families with Dependent Children (AFDC) program. This provision which also takes effect October 1, means that all children sixteen and older, children in care for five years or siblings of another eligible special needs child will no longer have their federal funding and commitment linked to whether or not that child was removed from a family that would have been eligible for AFDC as it existed on July 16, 1996. We look forward to seeing Congress completing its work in this area by also de-linking kinship and foster care eligibility in the same way. CWLA appreciates the recent action of a Member of this Subcommittee, Congressman John Lewis (D–GA) for his recent introduction of H.R. 3329<sup>2</sup> which addresses this challenge and we look forward to working with him and the subcommittee on this. As part of the adoption improvements included in the Fostering Connections to Success Act, Congress also extended and increased the incentive program to encourage more adoptions of older children waiting to be adopted.

Finally, Congress enacted changes that took effect last October when the bill was signed into law, in the areas of workforce development, strengthening education and improving health care. These provisions, when fully implemented and practiced, will strengthen the child welfare workforce and improve both the health and education outcomes for children in care.

Through Fostering Connections to Success, the availability of federal training dollars to cover training of staff not only in public agencies but in private child welfare agencies and for court personnel, attorneys, guardian ad litem, and court appointed special advocates can, and we believe will, be an important tool in developing the child welfare workforce.

The health care planning requirement that state child welfare agencies work with the state Medicaid agencies and other healthcare experts to create a plan for the ongoing oversight and coordination of health care services for children in foster care can serve as a tool to address the frequently unmet health and mental health needs of children in care. If implemented effectively, we will see better health screenings; better identification of needs; greater medical information sharing; greater oversight and tracking of medication and increased continuity of care.

Education outcomes and opportunities for children in foster care will be significantly enhanced due to provisions in the new law, and with an assist from the edu-

<sup>1</sup> Children who age out of foster care are captured by the AFCARS emancipation data element. Children who exit care to emancipation are those who reach the age of majority according to state law by virtue of age, marriage, etc. CWLA, Special AFCARS tabulation.

<sup>2</sup> H.R. 3329, “Look-Back Elimination Act of 2009, introduced July 24, 2009. Sponsor Congressman John Lewis (D–GA).

cation community. We know this was a key concern for Members of this subcommittee and CWLA appreciates that leadership. There is good reason for this concern. While national data is sparse several individual studies and surveys show that half of youth emancipating from foster care will not have received a high school diploma.<sup>3</sup>

As of last October new requirements in the law are in effect and state child welfare agencies are to coordinate with local education agencies to ensure that children are able to remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interest. In that case, the state must ensure transfer and immediate enrollment in the new school. In addition, the act provides increased federal support to assist with school-related transportation costs. Finally, the state plan must ensure that every child receiving IV-E assistance is enrolled as a full-time student or has completed high school.

*Positive Developments In the First Months, Further Action Required*

Before the enactment of Fostering Connections to Success, various state surveys found a range of approaches to supporting these families. A recent survey by *Child Trends* determined that 49 states allow kin to pursue a legal guardianship for children in state custody while receiving some financial support. That same survey indicated that forty of these states required that reunification had to be ruled out first before support was extended and twenty-eight states reported that adoption also had to be ruled out.<sup>4</sup>

Although the enactment of the Foster Connections to Success Act is historic in its reach, it comes at a particularly challenging time. The nation is facing one of the most severe if not *the* most severe recession since the great depression of the 1930s. As a result, states have been enacting budget cuts that have impacted not just the core child welfare services but a cross section of programs that affect families by providing key human services. Just when families face increased stress due to layoffs, and reduced wages and incomes, community and societal efforts to cushion the blow are being curtailed.

States have, in recent years, relied on a range of federal funds to address their child welfare systems. Two of these sources are TANF (Temporary Assistance for Needy Families) and SSBG (Social Services Block Grant) which have respectively provided nineteen percent and twelve percent of total federal funds<sup>5</sup> used for child welfare as of 2006. These two block grants have also been in demand to fund other increasing human service needs in this time of strained state budgets. As a result, many states have not yet been able to adopt the options provided to them through the new law.

An additional challenge is the transition from one Administration to the next. Recent history suggests that these transitions take longer and longer after each changeover. The end result for Fostering Connections to Success has been a delay in guidance that is much needed by the states. CWLA believes that such an expansive and important reform requires an aggressive promotion and training by HHS in regard to what states can and should do in implementing the new law. CWLA, along with many child welfare and children's organization, is working to educate its membership. We find our member agencies, both public and private, eager to learn about the new law and how the policy changes encouraged by the new law can be implemented following a best practice model, but we feel nothing carries as much force as the leadership of the agencies and the Department vested with the oversight of the new law.

At the same time it's encouraging to see that some policy changes are beginning to take place. As of last week, the Children's Bureau indicated that seven states plus the District of Columbia had actually filed plan amendments to extend Title IV-E funding to kinship/subsidized guardianships. Those states are Connecticut, Maine, Missouri, Oregon, Pennsylvania, Rhode Island (which has been approved), and Tennessee. In addition, through informal surveys by organizations such as our colleagues from APHSA and through some of our own informal discussions, the states of Illinois, Michigan, Oklahoma, Massachusetts, Alaska and New Mexico have

<sup>3</sup>In a national survey, 54% of former foster youth had completed high school. Cook, R. (1991). A national evaluation of Title IV-E foster care independent living programs for youth. Rockville, MD: Westat Inc. At 12-18 months after leaving foster care, 55% of former foster youth in Wisconsin had completed high school. Courtney, M., & Piliavin, I. (1998). Foster youth transitions to adulthood: Outcomes 12 to 18 months after leaving out-of-home care. Madison: University of Wisconsin.

<sup>4</sup>Allen, T., K.; DeVooght, K., & Geen, R. (2008). *Findings from the 2007 Casey Kinship Foster Care Policy Survey*. Washington, DC: Child Trends.

<sup>5</sup>DeVooght, K.; Allen, T.; & Geen, R. (2008). *Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY 2006*. Washington, DC: Child Trends.

indicated some interest or preparation in moving forward with the kinship option. We would expect more states to take action both as budget debates settle and as guidance is provided in greater detail.

Initial guidance in regard to states taking the kinship care option would suggest that current kin families covered through the use of state funds and other federal funds such as TANF may not be eligible for future federal funding under the new kinship option even if the child had been Title IV–E eligible and met all the other conditions set out in the law when he or she was placed in care.<sup>6</sup>

**We urge Congress to work with the new Administration** to address the possibility that some of these current kin families would in fact be eligible for federal funding after a state has taken the guardianship option. Clarification of this and possible other issues may speed up the ability of states to assess their options and to implement this kinship provision. Some guidance may also be needed in regard to how to structure guardianship assistance payments and the process for establishing and adjusting such agreements and the relative consultation process. Since many states have used TANF funds through the child-only grant to fund kinship programs, we would hope taking the Title IV–E option would not be based solely on the financial advantages or disadvantages of choosing TANF over Title IV–E but would be based on what is in the best interest of these families and children.

An additional provision that has taken effect is Section 204 of the Fostering Connections to Success Act which addresses educational stability. The law now requires that as part of the casework plans, when it is in the child's best interest, he or she remain in the same school even if that child resides in another school's district boundaries. As part of this new requirement, states are now allowed to draw-down the higher matching Title IV–E maintenance funds instead of administrative funds to help address the transportation costs of transporting a child to his or her old school. The new provisions also require that when the child must move and cannot remain in the same school district, that he or she be enrolled immediately in a new school with his or her records. This is an important new requirement in the law that we believe will take a continued effort by states to fully implement. It is unclear how well these new provisions have been implemented. Several states have indicated that they do meet the education needs of children in care. Other states have indicated to us that it can sometimes be a challenge to get the local school districts to focus on this population when schools are challenged on so many other fronts. In recent months, other states have taken some action to address state laws that may be present barriers that restrict where a child attends school.

In recent weeks states such as Pennsylvania and Missouri have taken new steps to address the education needs and rights of children in foster care. On September 9, 2009 the Missouri Department of Elementary and Secondary Education sent out instructions to school administrators based on new enacted state legislation, Senate Bill 291. This new "Foster Care Education Bill of Rights" requires school districts to designate an education liaison for children in foster care, the child has the rights outlined in the new federal act to remain in his or her new school district, and outlined options to address the cost of transportation funding for these children.<sup>7</sup> In Pennsylvania, also as a result of new laws, the state issued new guidance in January 2009 that among other issues addresses previous prohibitions on children living outside school district lines from continuing to attend their same school. In this guidance the state urges local school education agencies to develop policies and agreements to address the movement of children in foster care and their need to remain in the same school districts when it is in their best interest.<sup>8</sup>

**At this point**, despite some progress, both administrative and congressional action are needed. As we have seen, the new law now places the burden on child welfare agencies. While we are supportive of such a requirement, to be truly effective an equal responsibility needs to be placed on state and local education agencies. Amending the Elementary and Secondary Education Act (No Child Left Behind Act), will highlight for educators how important it is that the needs of this population are addressed.

**Second, we would urge** that once the leadership has been confirmed by the Senate that both the Education Department and the Department of Health and Human Services issue joint guidance to both the state child welfare and education

<sup>6</sup>Title IV–E Plans, Kinship Guardianship Assistance Training, Fostering Connections to Success and Increasing Adoption Act of 2008. ACYF–CB–PI–08–007. <http://www.cwla.org/advocacy/adoptionhr6893acfinstructions.pdf>.

<sup>7</sup>*Foster Care Education Bill of Rights*. September 9, 2009. Memorandum to School Administrators, Missouri Department of Elementary and Secondary Education.

<sup>8</sup>*Enrollment of Students*. January 22, 2009. Basic Education Circulars, Pennsylvania Department of Education. Online at: <http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=84241>.

departments to make sure the education provisions of the new law are carried out. Again, we hear examples that some local education agencies when approached by child welfare agencies to address these new requirements are unaware of the new provisions. As our colleagues from the American Bar Association have indicated, the issues surrounding immediate enrollment, the transfer of records in a timely fashion, and the provision of needed transportation services to some foster children are complex issues but they must be addressed if we are to assure the education success of foster children. CWLA will be working with our child welfare partners, others and hopefully Members of Congress to address needed changes in the education reauthorization to close this gap.

Transition planning is another important provision that was included in the Fostering Connections Act. As of last October, states were required to have new planning requirements for young people preparing to leave foster care. The new law requires caseworkers to actively engage young people no less than ninety days before he or she leaves care in developing a plan that is both personalized and at that young person's direction. The plan must include specific options with regard to several important services such as access to health care, housing options, work force supports and educational opportunities. This is in addition to requirements around transition planning already in the law. CWLA feels it is vital that we make sure that these additional transition and planning requirements be carried out the way the law specifies, including the requirement that the young people be actively involved and direct the planning. This will take some time to both implement and measure. Ultimately if this provision is carried out the way the Subcommittee envisions—and we hope it is—it will mean we have to make sure caseworkers are trained and adequately staffed so that they will be properly working with these young people to address their varied needs.

A final element that took effect last October and will be important to see that it is effectively implemented are the requirements that we know the Chairman has had a great deal of interest in—the new health planning requirements. Similar to the transition planning, these new requirements build on what is already in law to strengthen health access and health services to children in care. It is vital that children in care be screened and that the services they need be delivered. This includes better tracking and use of medication. As your Subcommittee learned from earlier hearings, this is not always done.

As CWLA has stated before, studies indicate that between one-half and three-fourths of children entering foster care exhibit behavior or social competency problems that warrant mental health care.<sup>9</sup> We are not sure how much increased and coordinated planning between state child welfare agencies and Medicaid agencies have taken place. A recent letter by the American Academy of Pediatrics (AAP) states that based on work with their individual AAP chapters, it does not appear that the new requirements of the law are being met. We would concur with many of the recommendations and suggestions in that letter regarding the kind of consultation between not just the two state agencies but also a host of key stakeholders including health care providers and other parties that effect children in child welfare.<sup>10</sup>

**We urge HHS** when they issue their new pre-print, which is the form that states may use to submit their five year state plan, to be more specific in its direction to states to assure that all the requirements around planning and consultation take place. This will ensure that the services outlined in the new law such as screening, monitoring of and provision of care, the tracking and use of medication and the tracking of a child's medical records are in fact being carried out and are in place in all fifty states.<sup>11</sup>

#### *Fiscal Year 2010*

Two aspects of the law take place in a few weeks when the new fiscal year starts. On October 1, tribal governments and consortia will be able to apply to HHS to run their own Title IV-E foster care, kinship care and special needs adoption assistance programs drawing federal funds directly. Our understanding is that several tribes have expressed an initial interest in applying to run their own Title IV-E programs. This new law represents a historic opportunity to extend support and funding to Na-

<sup>9</sup>Landsverk, J.A., Burns, B.A., Stambaugh, L.F., & Rolls Reutz, J.A. (2006). *Mental Health Care for Children and Adolescents: A Review of the Literature*. Retrieved online October 22, 2007. Seattle: Casey Family Programs.

<sup>10</sup>American Academy of Pediatrics. August 20, 2009. *Letter to Honorable David Hansell, Acting Assistant Secretary for Children and Families*.

<sup>11</sup>Title IV-E Pre-Print. (2008). OMB Request for Public Comment: State Plan for Foster care and Adoption Assistance—Title IV-E. OMB No.: 0980-0141 <http://www.cwla.org/advocacy/adoptionhr6893acfp reprint.pdf>.

tive American populations who for too long have not had equal access to federal funding and support. This lack of access to services and support has been a contributing factor to the overrepresentation of Indian children in the child welfare system in some parts of the country. As positive as this development is, it too will take time to be implemented properly. As we stated in our comments to HHS last May, the opportunities presented in this new law can and should encourage collaboration between three key partners: tribal governments, state child welfare agencies and the Federal Government, in particular the Department of Health and Human Services (HHS). As this new law is implemented and as more tribal governments take the option to establish Title IV–E Foster Care, Adoption Assistance and Kinship Guardianship programs, we urge the Department to invest the time and resources necessary to assist in the successful implementation of these new plans. Indications are that HHS recognizes this challenge.

A tribal government willing to take on the operation of a Title IV–E program must also address issues around data collection and requirements for raising local matching funds. While this may take time, we feel that positive initial steps have been taken with the increased dialogue and discussion within tribal communities as well as between state and tribal governments.

The second change in law that takes place on October 1 is the gradual de-link from the AFDC eligibility requirements for special needs adoptions. At the start of the fiscal year, all special needs adoptive children sixteen and older, or children who have been in care for five or more consecutive years, and their siblings, placed into an adoptive family where one of these children is Title IV–E eligible will all become eligible for Title IV–E funding. No longer will the eligibility for federal support be limited to children removed from a family that would have been eligible for AFDC in 1996. An important part of this phase-out is the requirement that Congress inserted that if a state experiences a savings because federal funds are extended to special needs placements not previously covered, those savings have to be reinvested into other child welfare services. We recognize the challenges this presents in the economic environment states now face but we believe that effective execution of this requirement can set up an important avenue to re-invest state dollars into prevention services as a result of the Federal Government taking over a fairer share of adoption funding.

**We urge the new Administration** to outline how this spending will be tracked so that funds now currently within the child welfare system will remain in other areas of need such as prevention services and post-adoption services.

#### *Hopes for the Future*

Although it has been nearly a year since enactment of this law, in terms of implementation, we are just beginning. We feel confident that as state budgets settle, as the new Administration fills out its policy positions and they get Senate approval, and as organizations such as ours continue our efforts at explaining the opportunities and the best practice approaches, more states will implement changes that will move more children toward permanency and that will ultimately improve outcomes for children and youth in the child welfare system. We believe that as Tribal governments explore and learn about the potential to draw down direct funding and as a dialogue between the Federal Government, the states and tribes expand their initiatives, new partnerships can be built and more children living in Indian country will be better served.

There are provisions of the new law that require regulation and further guidance. We hope through guidance from Congress and by soliciting information and views from the field including the views of state and local agencies, the public, faith-based and non-profit communities and by always including the feedback and concerns of children and families most effected by these programs, we can implement all of these provisions in a way that will improve outcomes for children and families. We urge the subcommittee to continue this oversight and we hope you will be vigilant for any way that the law can be strengthened and improved in the coming months.

#### *Next Steps*

**We urge the subcommittee**, as the Fostering Connections to Success Act is implemented and phased in, to continue to take the next steps that the Chairman has talked about in recent months—as have the leaders of the Senate Finance Committee—about examining ways to provide greater focus and federal support for programs that can prevent child abuse and neglect from taking place. CWLA is very pleased that bipartisan legislation introduced by the Chairman, Congressman Danny Davis (D–IL) and Congressman Todd Platts (R–PA), which will expand support for proven home visiting programs, is continuing to move forward in Congress. It is an important tool that can reduce the incidents of abuse and neglect. We also

hope that the next phase of reform will allow states to invest Title IV–E funds into prevention services that can demonstrate their effectiveness. There are several proposals in development that merit consideration. Last Congress, for example, the Chairman introduced HR 5466<sup>12</sup> which included a provision to use Title IV–E funds for programs that can reduce placements in foster care, and strengthen post reunification and post adoption services. We have been a part of a coalition of advocacy groups, the Partnership to Protect Children and Strengthen Families,<sup>13</sup> which has offered another example for reinvesting Title IV–E funds. We also feel that the 2010 budget which includes some limited funding for demonstration projects that seek to reduce long term foster care can assist in the development of reforms that can begin to help reduce both the number of children entering foster care and the length of stay for those children who do have to be placed in care.

The subcommittee will also be dealing with the reauthorization of TANF. As we indicated earlier, TANF contributes nearly one-fifth of federal child welfare funding. In regard to the financial role TANF plays, many states have used the TANF block grant to invest in innovative ways to provide child welfare services that can help prevent placement into out-of-home care. We need to protect these types of investments and perhaps gather a better understanding of how these investments are made and how they supplement the system. The subcommittee will also have to examine the link between Title IV–E kinship care and the use of child only placements to make sure children in child welfare receiving kin support through these grants are being adequately served. We need to take a careful look at this because we do not want a situation where a family is forced into child welfare just to access services. At the same time we do not want families already connected to the child welfare system to be denied services through Title IV–E. As we indicate earlier in this statement, it is important that the choice of the Title IV–E kinship option be based on what is in the best interest of the child.

There are obvious overlaps between TANF and child welfare. Some, even within the human service advocacy community, fail to recognize that many of these are the same vulnerable families and we need to examine whether or not there is adequate coordination between child welfare and TANF agencies.

Finally, CWLA feels that the reestablishment of a White House Conference on Children and Youth, similar to the Aging Conference, would be an important tool to help communities and states deal with many of these challenges from creating effective community-based prevention strategies to tackling the implementation of the Fostering Connections to Success Act. Ultimately the Federal Government can provide vital support and leadership—but we will truly improve outcomes for this nation’s most vulnerable children and families only if these new laws and programs are carried out down to the casework level. This is CWLA’s mission and we believe, our collective responsibility.

Chairman MCDERMOTT. Help us pass health care.

Ms. SPEARS. We will do what we can.

Chairman MCDERMOTT. Thank you for your testimony.

Ms. SPEARS. You are quite welcome. Thank you.

Chairman MCDERMOTT. Our next witness is Ms. Kathleen McNaught, who is the assistant director of the American Bar Association’s Center on Children and the Law.

Ms. McNaught.

**STATEMENT OF KATHLEEN M. MCNAUGHT, ASSISTANT DIRECTOR, CENTER ON CHILDREN AND THE LAW, AMERICAN BAR ASSOCIATION**

Ms. MCNAUGHT. Good afternoon, Chairman McDermott, Ranking Member Linder, and Members of the Subcommittee.

My name is Kathleen McNaught. I am the assistant director for child welfare at the American Bar Association’s Center on Children

<sup>12</sup>H.R. 5466, “Invest in KIDS Act”, introduced February 14, 2008. Sponsor Congressman Jim McDermott (D-WA).

<sup>13</sup>Partnership to Protect Children and Strengthen Families Act (2007) <http://www.cwla.org/advocacy/nurturingfamilies.pdf>.

and the Law, as well as the project director for the Legal Center for Foster Care and Education, a national technical assistance resource and information clearinghouse on legal and policy matters affecting the education of children in the foster care system.

I am pleased to appear today at the request of Carolyn Lamm, president of the American Bar Association. The ABA has long been committed to improving the educational outcomes of children in care. And in August of 2009, the ABA House of Delegates unanimously passed an education policy urging Federal and State legislators to pass laws and for child welfare and education agencies to implement and enforce policies that help advance a child's right to remain in school, complete school, and obtain a high-quality education.

Thank you for this opportunity to share the views of the ABA on foster care and education policy.

Thanks in no small part to the strong leadership and dedication of Chairman McDermott, the Fostering Connections Act contains key educational provisions that are essential to breaking the cycle of poor educational outcomes for children in foster care. The act requires the child welfare agency to coordinate with local education agencies to ensure that children remain in their same school even when their living placements change. If it is not in the child's best interest to remain, the agencies must coordinate to ensure immediate and appropriate enrollment in a new school.

Critically, the act also clarifies that Federal child welfare funds can be used by States for reasonable travel costs to allow children in foster care eligible for IV-E reimbursement to stay in the same school.

The Fostering Connections Act has brought much-needed attention at both the Federal and the State levels to the poor educational outcomes of children in care and this critical need for collaboration between child welfare and education agencies to improve these outcomes.

As we have heard from my fellow panelists, many States and local child welfare agencies are now mobilizing to implement these education provisions in their States. Some have organized State or local interagency work groups and developed interagency agreements to address educational stability. Some States have adopted or are in the process of adopting legislation, regulations, or guidance to identify the responsibilities of each agency in implementing these provisions of the act.

Advocates who represent children and those who are working at the systems level are becoming better informed about the law's requirements and have started to advocate for educational stability and immediate school access. As a result, some students in foster care are already experiencing improved stability and continuity in school.

While much more work needs to be done, the past 10 months have included positive steps forward to changing both policy and practice to align with these new mandates. However, despite these significant efforts in the States, there are four main barriers to full and effective implementation of the educational provisions of the Fostering Connections Act.

Number one, there is a need to create reciprocal mandates in education law, requiring education agencies to coordinate and collaborate with child welfare agencies to ensure the stability and continuity of students in care.

Number two, there is a strong need to provide further clarification that the mandate to ensure school stability includes a mandate to provide arrange and fund transportation when necessary.

Number three, there is a need to provide additional support, guidance, and resources to States on how to best work together and collaborate across agencies and how to set clear lines of responsibility for each agency. It would be important to see Federal-level collaboration between the U.S. Department of Health and Human Services and Department of Education to serve as a model for States.

Some of the collaboration issues States are currently struggling with include: determining which agency will make the best-interest determination for the child to remain in their school; what factors to consider when you are making that determination; how to identify and involve all necessary individuals, including youth, in these decisions; how to create and fund clearly identified points of contact in both the child welfare and education agencies at the State and local level, desperately needed support to ensure stability and resolve disputes; and how to ensure a child's right to transportation to remain in that school; and how to coordinate to provide, arrange, and pay for that transportation.

Finally, barrier number four to successful implementation: There is a need to improve the collection of data that can track education outcomes and improvements for children in care. Even in the States that have already made some great strides to improve educational stability, there is minimal data to document these advances.

States must collect this critical data and receive support and guidance to track improvements for children in care. Tracking data such as attendance, the number of school changes, enrollment delays, is necessary to document the implementation of these education provisions, but they also must link them to the improvements and track improvements in educational outcomes for children in care. Without effective information and data sharing across child welfare and education agencies, it is impossible to capture this critical information.

In closing, I would like again to thank the Subcommittee for the opportunity to present the views of the American Bar Association. This is an exciting moment and a real opportunity to improve the education and the lives of many children in our Nation's foster care system.

I would be happy to answer any questions. Thanks.

[The statement of Ms. McNaught follows:]



**TESTIMONY**

of

**KATHLEEN M. MCNAUGHT**

On behalf of the

**AMERICAN BAR ASSOCIATION**

before the

**SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT**

**COMMITTEE ON WAYS AND MEANS**

**UNITED STATES HOUSE OF REPRESENTATIVES**

for the hearing  
on

**"Implementation of the Fostering Connections to Success and  
Increasing Adoptions Act"**

Washington, DC  
September 15, 2009

Good morning Chairman McDermott, Ranking Member Linder and Members of the Subcommittee:

My name is Kathleen McNaught. I am the Assistant Director for Child Welfare at the American Bar Association Center on Children and the Law as well as the Project Director for the Legal Center for Foster Care and Education, a national technical assistance resource and information clearinghouse on legal and policy matters affecting the education of children in the foster care system.

I am pleased to appear today on at the request of Carolyn B. Lamm, President of the American Bar Association (ABA). The ABA is the world's largest voluntary professional organization, with a membership of hundreds of thousands of lawyers, judges, and law students worldwide, including a broad cross-section of family law practitioners, lawyers practicing in juvenile and dependency courts, and judges. The ABA has long been committed to improving the education outcomes of children in care, and in August 2009, the House of Delegates unanimously passed an education policy urging, among other things, federal and state legislatures to pass laws and for child welfare and education agencies to implement and enforce policies that help advance a child's right to remain in school, complete school and obtain a high quality education. Thank you for the opportunity to share the views of the ABA on foster care and education policy.

**Foster children nationally are at high risk educationally.**

For the almost 800,000 children and youth involved in the foster care system each year, educational success can be a positive counterweight to their experiences of abuse,

neglect, separation, and impermanence in their family and living situations.

Unfortunately, the educational outcomes of most children in foster care are dismal. One of the major educational challenges youth in foster care encounter is a lack of school stability. On average, youth in foster care move to new foster placements one to two times per year, and have often changed schools with each move. Research indicates that mobile students lose four to six months of educational progress each time they change schools. When youth in foster care move, they face challenges unique to their situation. Many spend a significant amount of time out of school because of poor coordination between child welfare and school personnel, resulting in a failure to promptly enroll students in their new schools. Moreover, they often must repeat courses and even grades because of difficulties transferring all of their records and course credits from prior schools. Additionally, moving schools – challenging for any student – can be emotionally overwhelming for children in the foster care system who are dealing at the same time with separation from their parents and siblings, neighborhoods, and everything that is familiar to them. As a result of all of these challenges, foster youth often fall behind their peers in school, lose hope, and ultimately drop out of school.

**The Fostering Connections Act significantly and directly addresses the importance of school stability and continuity.**

Thanks in no small part to the strong leadership and dedication of Chairman McDermott, the Fostering Connections Act was signed into law on October 7, 2008. The education provisions of the Act are essential to breaking the cycle of poor education outcomes for children in foster care. The Act requires the child welfare agency to coordinate with local

education agencies to ensure that children remain in their same school even if their living placement changes, unless that would not be in the child's best interest. If it is not in the child's best interest, the agencies must coordinate to ensure immediate and appropriate enrollment in a new school with all of the educational records of the child provided to that new school. Critically, the Act also clarifies that federal IV-E funds can be used by states for reasonable travel costs to allow children in foster care eligible for IV-E reimbursement to stay in the same school.

The Fostering Connections Act has brought much needed attention at both the federal and state levels to the poor education outcomes of children in care, and the critical need for collaboration between child welfare and education agencies to improve these outcomes. Many state and local child welfare agencies are now mobilizing to implement the Act in their states. Some have organized state or local interagency workgroups and developed interagency agreements to address education stability and continuity for children in care. Some states have adopted, or are in the process of adopting, legislation, regulations, or guidance to identify the responsibilities of each agency in implementing this Act. Advocates who represent these children and those who are working at the systems level are becoming better informed about the law's requirements and benefits for students, and have started to advocate for education stability and immediate school access. As a result of these efforts, some students in foster care are already beginning to benefit from the Act. While much more work needs to be done to implement the education provisions of Fostering Connections in all states, the past 10 months have included positive steps forward to change both policy and practice to align with these new mandates.

Immediately after the passage of the Act, the Legal Center for Foster Care and Education began receiving requests at the federal and state level from policymakers, advocates, and others about how to implement the education provisions of Fostering Connections most effectively. Because education stability and continuity were already a focus of our Legal Center work, we were able to provide both state and federal examples of best practices for states wishing to change law, policy and practice. Our work on these issues continues, and as states work through the various legal, policy, and practical challenges to implementation, in particular the need for interagency and cross-systems collaboration, we look forward to sharing our knowledge and experience.

**Despite these significant efforts in the states, there are still several barriers to full and effective implementation of the education provisions of Fostering Connections.**

What we have learned from the first 10 months of Fostering Connections implementation is that the full vision of the education stability and continuity provisions cannot be realized without addressing four key areas:

- 1) **Make explicit the need for the education agencies to coordinate with child welfare agencies to ensure education stability and continuity for children in foster care.** Fostering Connections places a clear mandate on child welfare agencies to act to ensure school stability and continuity and to coordinate with local education agencies. However, without a reciprocal mandate on the education side, in some jurisdictions, school stability and prompt enrollment – and ultimately better education outcomes for these students – cannot become a reality. For example, without

reciprocal mandates, many education agencies feel that residency requirements bar them from accepting foster youth from out of district, and documentation or record requirements bar them from immediately enrolling students changing schools. Furthermore, they may be otherwise unwilling or unable to collaborate successfully with child welfare agencies, thereby denying vulnerable foster youth an opportunity for school stability and success.

- 2) **Clarify the mandate to transport children to their original schools.** Fostering Connections requires that child welfare agencies ensure that children remain in their schools unless not in their best interest. Importantly, it authorizes states to use federal IV-E funds for transportation for IV-E eligible children. Further clarification is vital to ensure that child welfare and education agencies recognize that the mandate to ensure school stability includes funding transportation when necessary, and to ensure that they can and do have access to sufficient federal dollars available for this purpose.
- 3) **Promote interagency collaborations and identify clear responsibilities of each agency.** Fostering Connections requires close collaboration between the child welfare and education agencies, but does not provide guidance as to how the collaboration should work. Interagency collaboration is always challenging, and states need support and guidance on how to best work together. They also need help and support creating clear lines of responsibilities for each agency. Formal collaboration at the federal level between the U.S. Department of Education and U.S. Department of Health and Human Services could serve as a powerful model for states and provide further guidance on how to clarify the responsibilities of each state

agency, and the structure of that collaboration. Some of the issues that states are struggling with include:

- a. Which agency/entity will make the best interest determination for the child to remain in the same school (child welfare or education agency, or the juvenile court) and what factors should be considered and individuals involved in that determination?
- b. How to create and fund clearly identified points of contact in each agency, at the state and local level? These identified individuals are desperately needed to ensure education stability and continuity and appropriate services and to resolve disputes that may arise. Several states, both before and after the Fostering Connections Act, have created such positions (either through legislative or practice change) that have had a significant impact on coordination.
- c. How to ensure a child's right to transportation to school, and how to coordinate to provide and pay for the transportation efficiently and effectively?
- d. What is the role of the juvenile courts overseeing the child's case related to the implementation of the Act and providing educational stability and continuity?

Child welfare and education agencies must be supported in their collaborative efforts and the development of interagency agreements and plans related to their required coordination and specific responsibilities. Without more direction and guidance on these issues, education and child welfare agencies will struggle to reach appropriate

agreements, or, in many cases, will fail to reach *any* agreement about how to coordinate with each other to implement Fostering Connections.

- 4) **Collect data to improve education outcomes for children in care.** Even in the states that have already made great strides to improve education stability and continuity for children in care, there is minimal data to document these advances. States must collect this critical data, and receive support and guidance to track improvements for children in care. Tracking data such as attendance, the number of school changes and enrollment delays, is necessary to document the implementation of the education stability provisions of the new law and show improvements in education outcomes for children in care. Without effective information and data-sharing across child welfare and education agencies it is impossible to capture this critical information.

In closing, I would like again to thank the Subcommittee for the opportunity to present the views of the American Bar Association. This is an exciting moment and a real opportunity to improve the education, and the lives, of many children in our nation's foster care system. I appreciate the chance to share our views and ideas. I would be happy to answer any questions you may have.

Chairman MCDERMOTT. Thank you very much.

Thank the whole panel for your testimony.

I just have a question that struck me as I listened across the whole question of education, because it is sort of woven through everybody's experience, and the decision to keep the child in the school that they were going to or trying to place them close to home.

What kind of problems has that created when you have the youngster, when they can still go back, walk if they want to, back to where they were taken out by the State? It is just sort of Murphy's law of unintended consequences. I wonder what the response is or what experience you have in that.

Ms. Donald.

Ms. DONALD. Certainly, Mr. Chairman. I think that is a great question; and, of course, every decision we make always has to be what is in the best interest of the child. But our experience is that if you can keep a child placed first in their own home community that then you reinforce ties to family, school, church, and other activities that are less likely to disrupt a child's life.

When we first bring a child into foster care, the goal for that child always is reunification initially, unless there are extreme safety issues. That is what is required under ASFA and we are working very diligently within the first 12 months to try to reestablish that linkage with the family and to keep that child connected, at the same time, we are supporting the family, doing supportive services, enrolling the parents in substance abuse and mental health services, if that is necessary.

Certainly if there are safety issues, extreme abuse or any fears of danger of a bad environment for that child to be around, then of course we would make a different decision. But the vast majority of our children in the beginning we want to keep them close to their home communities and try to avoid the total disruption of their lives.

Mr. MCEWEN. I would add to that that, prior to us implementing the school monitoring the rotational intake, we worked with foster parents. So we did surveys to try to determine what foster parents were willing to work with biological parents and to what extent were they willing to work with biological parents. Would they attend school meetings with biological parents and would they attend medical appointments with biological parents, up to and including would they supervise visitation with the biological parent in their home?

And so knowing that a significant number of foster parents expressed interest in working with biological parents helped us to make that decision to move in that direction. And so it certainly sets up some mediation situations in some instances. But a lot of times when folks are from the same community, they have knowledge of each other, they may not know each other directly but they do have knowledge of each other, that kind of mitigates a lot of these problems and situations from coming up.

The other thing, as Secretary Donald stated, too, is that a lot of times we consider kids' connections to siblings, but their best friend and the person who they talk to the most and sought consultation sat at the desk next to them, maybe didn't sleep in the bed next

to them. So maintaining those connection with friends and the social connections are particularly important for kids. And so it has worked out to benefit a lot of kids.

And making a decision to not place that kid closer to the school is the one that workers have to make. So the foregone decision is to first try to keep them in the school, and then prove out or weed out why you can't keep that kid in the school is the approach that we have been taking, and so we have seen it happen.

The problem is we have used up a lot of those foster homes in the first couple of years of their program that were closest to the kids, to the area where our larger number of kids were coming from. So now it is about recruitment and sustaining that available pool of foster parents who make the decision to work with both the kid and the biological parents.

Chairman MCDERMOTT. Greta, can you tell us from your own experience with your education, you sort of alluded to some of it, but why were the decisions or what were the decisions made and how did it effect you?

Ms. ANDERSON. Sure. When I entered the foster care system, I was taken and they hadn't really fully thought out where they would put me, so I went to a residential lockdown facility despite—sort of criminalized, despite not having done anything except coming from a messy family. After that, I entered a group home and entered the foster care system; and my foster family was in a different school district than the one I was originally from. So I have definitely experienced kind of displacement with my education.

As far as would it have been helpful for me to remain at my home school and also maintain those connection with peers, of course, definitely. Would it have made me seek out relationships with my biological family more than I did after being transferred out of that school district? I think that if a child is determined to see their biological family, they are going to find a way to do that. But I don't think I ever considered that my school is the way to go about doing so. Yeah.

Chairman MCDERMOTT. Thank you.

Mr. Linder will inquire.

Mr. LINDER. Thank you, Mr. Chairman.

Our colleague, Dave Camp from Michigan, has a long-time interest in these issues and presented a question I would like to present to Ms. Donald and Mr. McEwen.

The law said that States must notify the adult relatives of children entering foster care of their option to participate in the care and placement of the child. And a new demonstration grant program will encourage establishment and support of intensive family finding efforts to locate biological kin and then to work to reestablish relationships and to explore permanent family placements. Can either of you tell us how the implementation process for these two notice of relative provisions is going in your States?

Ms. DONALD. Thank you for that question.

We have a number of strategies to notify relatives, because that is also part of our Place Matters philosophy. We want to keep children with their families if we can safely do so or seek out relatives for their care if we cannot. And so, first, we have implemented our family center practice which requires family team meetings prior to

our removal of a child if at all possible. And that is a process in which we identify from the birth parents any other known relatives. We have some outreach efforts to try and bring as many people to the table as possible.

We also do the formal family finding program in a couple of our jurisdictions, and we have applied for one of the grants so that we can extend that statewide. And that would be very useful, both in terms of initial identification of relatives, but also in helping older youth to connect with family as they transition through the foster care system.

And the other thing is I have the advantage of also overseeing our child support operations for the State. And through our child support we have parent locator services, so we are creating agreements with our child support folks. They are experts in doing that and have search engines and databases, so we will be linking with them to ensure that we fully utilize those resources.

Mr. MCEWEN. In Illinois, we have historically taken the approach of placing children in relative foster care first. Right now, about 35 percent of our kids in care are currently placed with relatives; and so we do seek out those relatives and follow up with the legislation.

The challenge that we find is getting paternal relatives involved earlier on in the process, as identifying those resources for the children. A lot of times the maternal relatives are readily available; and so that is one of the challenges we have taken on, is trying to identify those paternal relatives who represent another set of resources for the children.

The biggest struggle around working with our relative care givers is that a lot of times they are treated like a perpetrator or they are treated like somebody who was involved in the abuse and neglect situation while going through the placement process, and they weren't. So, as a result, a lot of them don't want to go through the licensing process in advance, feeling like it is going to make them more advanced or more entrenched in the system. And so that creates a challenge for us, and that is why it is a real important issue that a lot of the kids who are candidates for 4-year eligibility because they are not placed in a licensed relative's home we don't receive the reimbursement for them. And that is the biggest challenge that we have.

Right now, in Illinois, I think we have about 3,000 kids who we believe would be candidates who would be eligible but there are no licensed relative homes. So we are trying to take a big push in licensing those relatives. We have about 1,200 new applications to work with relatives to work around licensing. Because one of the things that it does is it creates a higher reimbursement rate for the board rate to those relatives. And a lot of these are poor families. And so that higher reimbursement really allows another additional set of resources to the relative care givers, and so we look at it as a great challenge to try to work with relatives.

Ms. DONALD. I just wanted to add one quick thing to the issue of notification that has been raised by our Attorney General's office, is that, again, we need guidance from our friends at HHS as to what constitutes due diligence and what we can use to document notification. We have our own ways of doing this, but clearly we

want to do it in a way that meets the requirements of the Act, and so we need that guidance, and I wanted to put that on record.

Mr. LINDER. Everyone is talking about the importance of education for the future of these kids and staying in school and familiar with, if possible. Do you have any recommendations for other Federal programs that would benefit from increased emphasis on improving educational outcomes? Welfare benefits, food stamps, housing, and other mean-tested benefits? Have you given any thought to that?

Ms. MCNAUGHT. I have not. Our focus has been on the educational component. I would be happy to follow up with you on that.

Mr. LINDER. Would you?

Ms. MCNAUGHT. Yes.

Mr. LINDER. In terms of requiring education for the recipients of the programs, we will send you a letter and ask you for follow up.

Ms. MCNAUGHT. Absolutely.

Chairman MCDERMOTT. Mr. Davis will inquire.

Mr. DAVIS of Illinois. Thank you very much, Mr. Chairman.

Mr. McEwen, I am very interested in young children who are coming out of correctional facilities, teenagers who have been released, served whatever time they had to serve. I know that there is a program in Illinois to try and deal with this effort. How successful would you say that has been in recruiting foster parents homes for these young people?

Mr. MCEWEN. That is our adolescent foster care program. We have a number of kids in care who were incarcerated or served time in juvenile detention facilities. We had a substantial number of them who were there beyond a release date, about 100. We have gotten that down to five. Through research, we identified that a lot of the recommendations were to send these kids back to residential treatment; and 80 percent of the kids who went into juvenile detention exited from residential treatment. So it was not really making a lot of sense to keep that cycle of residential treatment to juvenile detention back to residential treatment, and we started an adolescent foster care program.

It is really being up front and honest with the foster parents to say, these are the challenges of these children, and this is the support that we are looking for. And we use the professional foster parent model to try to place no more than two kids in that home and have a full-time parent who doesn't work outside the home but focuses on the children.

Today, I think we have about 140 some kids in that program. We contract for 250 beds, so that will let you know how difficult it is to grow this program. But we have about 140 some kids in that adolescent foster care program, a number of whom have been incarcerated as youths; and we have got about a 98 percent stability rate in that program. The average age is 15.10 months—15 years, 10 months.

So we think it is a successful approach. A lot of recidivism is not occurring with the kids who are in this program. A lot are graduating from high school and moving on. I think the average length

of stay right now is about 2 years in that program. And so kids are doing well, and these kids do adjust and do better in foster homes.

And I think the important part is to have that conversation up front in the recruitment process, to say this is what we are recruiting you for; this is the resource and the job we are asking you to do. And you find people really committed to trying to work with that population.

And then we have a special recruitment effort through the church, who were formerly One Church One Child. They are now One Family One Child, who are leading that recruitment effort of trying to find parents to take in these children.

Mr. DAVIS of Illinois. Thank you very much.

Chairman MCDERMOTT. Mr. Roskam will inquire.

Mr. ROSKAM. Thank you, Mr. Chairman.

Greta, thank you for telling your story. You are a very gifted and very able communicator. It was very, very clear; and I just want to let you know I really appreciate that.

You said sort of in some of the closing comments in your testimony that we should focus on what it is that is helping students to succeed rather than kind of focusing in on the obstacles of failure. I am paraphrasing that. Could you give us a sense of perspective? In other words, if, Greta, you were going to have a conversation with an 8th grader or a 6th grader in the system, knowing what you know now, and you have been through this journey yourself, and you are where you are and you reflect back, what are the words of encouragement that you would be giving to them other than hang in there and persevere? But what did you mean when you put that in your testimony? I guess that is my real question.

Ms. ANDERSON. Okay. Yeah, I actually had the opportunity to do that this summer through my internship. I got to meet youth, and I looked at them and I was like, you were me at 14. And the weight of that and the responsibility of that was definitely amazing.

When I met those youth, the thing that I guess I was able to push most was just hang in there, get through this circumstance. Because if you do, what is waiting for you at the end, like, you wouldn't even believe.

And I think through opportunities such as the one that this Act is creating it gives them that hope that, okay, so my situation right now may not be perfect, but afterward there will be more waiting for me. And I wish someone had told me that at 14: Just hang in there. Just stick it out. It may stink for the next couple of years, but once you get through it is going to be worth it. So yeah.

Mr. ROSKAM. So the confidence of knowing that there is something concrete at the other end—

Ms. ANDERSON. Exactly.

Mr. ROSKAM [continuing]. Gives you sort of the buoyancy in a way to persevere in a real difficult season.

Ms. ANDERSON. And your experience doesn't have to be something that just happened to you, that you don't go through things like this in vain. The fact that I get to speak before all of you today and actually make an impact with my story rather than wallow in it is pretty amazing. So letting them know that it can give a voice

and change things for other youth coming after them is really important, I think.

Mr. ROSKAM. Director and Madam Secretary, you both emphasized in your testimony the need to keep children within a school system; and I wholeheartedly agree with you. Can you give a sense of the depth and the capacity that we have on that? You alluded to it, Director, in terms of recruiting pretty quickly through households within a particular high-need area, but could you put that in a larger context for us to realize is this sort of a goal? Are we on the verge of achieving that or are we a long way off?

Mr. MCEWEN. This is one of the biggest challenges for foster care systems. I have a youth advisory board, and I talk to them on a regular basis. Any number of these children will tell you that they have been to three and four elementary schools, four and five high schools. So that is a really big challenge facing the system.

I do believe, though, that through technology we have the ability to try to collocate the resources near where the child is coming from. And so how do we get the resources to the communities that have more of the children exiting out of that particular community is what we have done in Illinois. And so we had a group of homes that we had recruited, and now it is going back in and doing that recruitment.

A big help in doing recruitment is being able to tell a foster parent that the kid is going to come from the school down the street and the kid is going to come from the same school your kid comes from. So a lot of them may think I might know this kid, and that is a motivation for some people who may not have fostered at all, the notion of fostering within the community context.

The other thing is to try to start it earlier. We have been using Strengthening Families programs in Illinois, and it starts with day care centers. And what you are really doing is working with day care providers to identify family stressors, something as simple as a kid's change in eating habit, a kid's change in hygiene, a parent's change in hygiene when they are bringing the kid to school. Those are some oversimplified examples. But identifying those stressors and starting to work with families before they are coming into child welfare, and understanding early learning is the beginning of education with what we know about 0 to 3 and 3 to 5, and those sort of things. That is also a vehicle can be used to stabilize the educational outcomes from all kids but particularly stabilizing the education outcomes from foster kids.

Mr. ROSKAM. Madam Secretary.

Ms. DONALD. Sure. I would echo the last comments of Director McEwen. What we want to do is try to invest as much on the front end and try to identify families who are struggling and children in need to keep them from coming out of the foster care system. Of course, as everybody knows, those are resources that are so hard to get; and we have to have a child in foster care before we can claim any Federal resources.

The other part of your question I think went to—the biggest challenge is really having the right placement for children in the right place. In the State of Maryland, we are going through over the last 2 years what I call right-sizing our placement resources. We have in some jurisdictions 50 percent or more of our children

outside of their home county, not just their school district but in a whole other jurisdiction. And that has been because that is where the placement resource have been. And we had hadn't mapped them before, and we had not really looked at it strategically, and all of that is what we are doing now.

We are now in an enviable position where we do have enough foster families, we have had aggressive recruitment efforts and retention efforts over the last 2 years, we are revamping our group homes and making it harder for children to go into group homes. But having more resources for them to stay in families and then the outreach and support now with the Fostering Connection Act for more assistance for kinship care all will help to stabilize children in their home communities.

And just one more thing on the educational piece. We have a great deal of cooperation with our State Department of Education. But school districts are local; and it just all depends on the jurisdiction, quite frankly. It will be for us, we only have 24 jurisdictions but still really negotiating jurisdiction by jurisdiction to make sure we are meeting the requirements of the Act and that the records are being transferred, the kids are being enrolled and that we work out the transportation issues.

Mr. ROSKAM. Thank you, Mr. Chairman.

Chairman MCDERMOTT. Thank you.

Mr. Pomeroy will inquire.

Mr. POMEROY. Mr. Chairman, thank you and thank you for letting me participate in this Committee hearing. I find it absolutely fascinating. There is extraordinary work being done. And, Greta, you are absolutely an amazing advocate by giving a very articulate voice to the hundreds of thousands that are very well served by the wonderful eloquence that you bring to this issue.

Ms. ANDERSON. Thank you for having me here.

Mr. POMEROY. It is a privilege to get to hear you.

The issue, it is very interesting, because it has come up not in the context of Native American foster issues but in the context of you describing school-based, community based issues within an urban setting. Well, in a setting where you have a rural reservation in a remote region and no ability of the tribe to run their own program, you have State systems that may be taking not just away from school—and I really applaud the innovations you have brought to try to keep within the community. It would certainly have application also to the situation we are dealing with, that Native American community, pulling people out of their community, their school, indeed their culture. We believe we can do much better than this.

One of the things that I so applaud the chairman on is the legislation that he cobbled together from many different specific pieces of legislation was including the legislation that corrected, of all things, a drafting error. We did the research on the legislative history, and it appeared to be a drafting error that prevented tribes from running under Title 4(e), the Social Security system, their own programs.

Sometimes it would be like North Dakota, pretty constructive State tribal contracts and working arrangements, but not always.

And that meant this community placement was really thwarted, tribes trying to run this without resources. It was a mess.

It has now been fixed, and we are bringing these programs online, but we are early in the process.

I would just like to ask, Ms. Pata, your comments in terms of how you think this is going to work. In the end, this State tribal cooperation is extremely important. I would not want the tribes to run their own system to in any way erode that statement and tribal cooperation at dealing with this critical issue so important to our young people. What are your thoughts?

Ms. PATA. Well, I think, first of all, what I like about the legislation is it gives the opportunity for tribes to get direct funding from the Federal Government or to continue to work through the States. And I think the one question for us is this good-faith effort of the States in the cooperation with their tribal agreements. I mean, what is good faith really going to mean? I think that really depends.

One thing that HHS did before in the implementation of TANF where the tribes had the same kinds of options to collaborate with their States or to go work directly is that they encouraged the State tribal relationships. I think one of the things that we are seeing out of this opportunity of this Act is a greater ability of tribes to really make that assessment of do we have the resources, the financial resources, to meet all the demands, the data requirements and infrastructure or is it better for us right now to be working closely with our States in the implementation and have that mentorship, even though the goal may ultimately be for our tribe to take it on. So it is going to be the process that allows for us to flexibly to grow within the program.

I think that is good, particularly given the fact that only five—maybe five tribes are going to be able to get those early dollars for development grants. And so I think that is going to be important to us.

That is why I think the whole collaboration with trying to create incentives that allow for the collaboration of States and tribes together is going to be really, really important. Even if the tribe becomes—receives direct funding, they are still going to have to deal with the coordination of data, the transfer of information. Some of our schools, are tribal schools. Some are State schools.

So we have a lot of collaboration that is going to happen, no matter what; and I think that will be real important for the implementation. But we do need to deal with the challenges that we have.

I think some of the State requirements are different than the tribal requirements, particularly when we are shifting a child from a home off reservation or on reservation or whether child services will provide some of the standards, for tribal homes are not the same, whether or not we have their own bedroom and those kinds of requirements you know very much from your own reservations in your community. So we need to deal with those uniquenesses.

Thank you for the question.

Mr. POMEROY. Good luck.

You mentioned David Camp. I also want to mention David Camp. He has been a real leader in the Ways and Means Com-

mittee on these issues for a long time and was very helpful in the particular bill that we are talking about today.

Ms. PATA. Yes, thanks.

Mr. POMEROY. Thank you, Mr. Chairman.

Chairman MCDERMOTT. We have a second Member of the Full Committee that has showed up. It is an indicator of the interest of the Committee on what happens in this Subcommittee on this issue.

Joe Crowley, you want to inquire?

Mr. CROWLEY. Thank you. Thank you, Mr. Chairman.

I want to thank the chairman and the Ranking Member for allowing myself and Mr. Pomeroy as well to participate, not being, as you said before, Members of the Subcommittee, but wanted to be here today because of the importance of this issue to me and I think, as the chairman mentioned, to not only the full committee but the House as well.

I want to thank in particular the work of the chairman for his good work in effect being this legislation last year into effect.

I want to thank also those of you here today to testify. I wasn't here for your testimony, but just responding in the brief moments I heard you got to respond to the query of my colleague, the passion you bring to this and the community you represent, the foster community, was noted by me in the short time that I was here; and I want to thank you for that. All of you—my colleague and I were talking about you are all a bunch of heroes here at this table for the work that you do, unsung heroes in many respects for the work that you do with some of the most challenging lives in America today; and we want to thank you for that.

One of the goals of the Fostering Connections to Success and Increasing Adoptions Act was to increase the stability of children in foster care, and I applaud the provisions of the bill to achieve that goal. With foster children going through so many changes throughout their lifetime within the system, I believe we must do all we can to provide a stable, trustworthy environment for those children; and one way to do that is by encouraging something I have been very involved in, is long-term relationships through mentoring. A mentor can provide a constant presence in a foster child's life as they go through different homes and schools and even through the time when the child ages out of the system and starts their own adult life.

Particularly, I would like to ask Mr. McEwen and Dr. Donald, how many States increased mentoring for foster children as a result of the law or are States planning to do so that you know of?

Mr. MCEWEN. We haven't as of yet really developed new mentoring relationships and programs for our kids. And I applaud your support of mentoring.

I also have a caution in my experience that you have got some really great mentoring programs and then you have some others where people just sign up and want to hold a child's hand and babysit and not necessarily give that kind of stability. And so I would be more than willing to have further conversations with you about intent and experience in mentoring programs and how we can ensure that young people have what I believe is what I hear you saying and what those us of us in the field know: We want to

be sure they that have a lifelong connection to someone, a caring adult.

We are building that in. We have a ready by 21 initiative. It is not just for kids in foster care but all youth who are involved in State systems, including the juvenile justice system, our education system, but primarily youth and foster care; and that would be an important component. We really need to make sure that we are investing in the right kinds of mentoring programs and services.

Mr. CROWLEY. Mr. McEwen.

Mr. MCEWEN. We are very interested in mentoring programs and trying to utilize mentoring programs. Unfortunately, the recruitment of mentors is a great challenge. Because the community at large, a lot of the communities that our kids come out of, they have a great need for mentors as well and kids that are still at home with their birth parent and their families. And so we find ourselves oftentimes with short resources to really work on developing the mentoring programs in that way.

A lot of times when we have gone through the budget cycles and critical cycles, we focus on the mental health service and those what I would call hard-treatment-type services, and it doesn't give mentoring the attention that it needs. Because to recruit mentoring specifically for child welfare is a challenge and because mentors are being recruited heavily in a lot of communities that are faced with challenges of educational outcomes and gang violence and youth problems, that sort of thing. So I think resources directed toward mentoring in foster care is important.

Mr. CROWLEY. Thank you.

I would just bring to your attention the Los Angeles mentoring model which I think is one that has demonstrated success that ought to maybe be a model for other States outside of California to implement as well.

I would just, maybe for my colleague's sake, just mention that I have been working on legislation to provide for increasing the level of mentors throughout the United States by offering loan forgiveness in some way through college to get those folks of adult college years to mentor to younger individuals. I think that could be very successful, again providing it is not just a short-term hit for the student. They get a college loan reduction or forgiveness and then, when they are done, they don't see that child through aging out or even beyond. So I don't know how we can work through all those things, but thank you, Mr. Chairman.

Chairman MCDERMOTT. Thank you.

We want to thank all of you.

I have one last question that I realize has been nagging at me ever since you said it. Why is it that when you were taken out of your home the first time they put you in a lockup? What was the circumstance in the situation that made them do that—was it no foster home available?

Ms. ANDERSON. I was taken as an emergency placement. So I think initially when I was taken they were unsure. Actually, my case is really complicated. I am still not 100 percent sure on everything that happened. But it was an emergency placement, and I think initially there was no emergency foster homes available for a teen, and I entered a juvenile facility.

Chairman MCDERMOTT. And you wound up at the juvenile detention center?

Ms. ANDERSON. Correct.

Chairman MCDERMOTT. I want to thank all of you for coming and giving your testimony. We will be back on this issue. There are still some issues that are not resolved.

Thank you. Meeting is adjourned.

[Whereupon, at 2:32 p.m., the Subcommittee was adjourned.]

[Submissions for the record follow:]

#### **Statement of American Academy of Pediatrics**

The American Academy of Pediatrics (AAP), a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, appreciates this opportunity to offer testimony for the record of the Ways and Means Subcommittee on Income Security and Family Support hearing on implementation of the Fostering Connections to Success and Improving Adoptions Act of 2009 (P.L. 110-351).

The AAP was proud to work closely with this Subcommittee and Congress in crafting Section 205, Health Oversight and Coordination Plans, which is designed to bring new attention to the health needs of children in foster care. Despite the overwhelming evidence of need, studies consistently demonstrate that many health care needs for children in the foster care system go unmet. Stark evidence that children are not receiving timely services has come from a range of studies, from the 1995 General Accounting Office (GAO) report demonstrating that 1/3 of children had health care needs that remained unaddressed while in out-of-home care, to the 2004 analysis of the National Survey of Child & Adolescent Well-Being documenting that only a quarter of the children with behavioral problems in out-of-home care received mental health services within a one-year follow-up period.<sup>1</sup>

The new Fostering Connections law requires state child welfare and Medicaid agencies to examine the delivery of health care services to children in foster care in order to identify opportunities for improvement. On June 3, the Administration for Children and Families issued a Program Instruction (ACYF-CB-PI-09-06) that directed each state to include a health oversight and coordination plan as part of its Child and Family Services Plans for Fiscal Years 2010-2014.

The Program Instruction provided little guidance to states beyond what was set out explicitly in the Fostering Connections statute. The AAP would therefore recommend that ACF consider the following issues when evaluating each state's Health Oversight and Coordination Plan (HOCP) for completeness and sufficiency.

#### **Consultation**

Congress directed state child welfare and Medicaid agencies to develop the HOCP in consultation with "pediatricians, other experts in health care, and experts in and recipients of child welfare services ..." Given the complexity of the health needs of children in foster care, a model consultation process should involve an interdisciplinary Foster Care Health Coordination Team, which would ideally include:

- health care providers
  - pediatricians
  - other physicians
  - mental health care providers
  - dental care providers
  - developmental and behavioral health professionals
- child welfare administrative professionals
- child welfare caseworkers
- judges and other judiciary branch officials
- representatives of biological, kinship care, and foster families
- foster care youth or alumni
- education system officials
- county, legal aid attorneys
- guardians ad litem

<sup>1</sup>Burns BJ, Phillips SD, Wagner RH, et al. Mental health need and access to mental health services by youths involved with child welfare: a national survey. *Journal of the American Academy of Child and Adolescent Psychiatry*. 2004;43(8):960-970.

- any others the Secretary deems appropriate (e.g. CASA, child care providers, juvenile justice providers, parenting experts, etc.)

In order to make the consultation process more manageable, the AAP suggests that states consider strategies that streamline the process. For example, plan development could be led by a Foster Care Health Leadership Team comprised of child welfare administrator with the authority to make decisions regarding financing and care, a pediatrician, and a mental health care provider.

#### ***Plan Adequacy***

Section 205 directs that the HOCP should consist of “a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs.” At present, none of the states has a seamlessly coordinated health strategy for the children under its care. While a number of states may address some of the plan components required by Fostering Connections, no state has been able to achieve the goal of providing all the components to all children. As a result, the AAP urges ACF to engage in a thorough examination of each state’s submission under the Child and Family Services Plans to ensure that it meets both the letter and the spirit of the law, i.e. that it represents a fresh review of opportunities to improve the health and well-being of children in foster care, and an exploration of new approaches to these issues.

#### ***Plan Components***

Fostering Connections requires that state plans address six discrete issues, which we would like to address in turn.

*Schedule of Screenings.* The HOCP must contain a “schedule for initial and follow-up health screenings that meet reasonable standards of medical practice.” Standards for health screenings are issued by the AAP and the Child Welfare League of America, among other organizations. For children in foster care, the AAP recommends:

1. A medical/developmental/mental health screening within 72 hours of entering the child welfare system.
2. A comprehensive assessment, including review of physical, mental, developmental, and dental health, within approximately 30 days after entering the child welfare system.
3. Additional visits as appropriate during the first 60–90 days of entering the child welfare system to assess the child in the process of transition, monitor the adjustment to care, identify evolving needs, and continue information-gathering.
4. Preventive health care in accord with an enhanced schedule of well-child visits, immunizations, and related care developed by authoritative professional organizations to meet the special needs of children in child welfare system.

While many states already have these standards on the books, the reality is that relatively few children in foster care receive medical care in accord with the standards. The Health Oversight and Coordination Plan should examine barriers to this standard of care and set out concrete steps for improving compliance.

*Monitoring and Treatment.* The law requires the HOCP to address “how health needs identified through screenings will be monitored and treated.” The AAP recommends that health needs identified during the screening, comprehensive assessment, and other visits should be monitored, treated and addressed in accordance with Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requirements by health care providers, caseworkers, and the judicial system in the setting of a medical home. The HOCP should specify steps for ensuring that the individuals involved in a child’s care each know exactly what their responsibilities are and how to fulfill them (e.g. a social worker is responsible for ensuring that appropriate medical exams or screenings are scheduled and appointments kept; a judge is responsible for ensuring that the child is receiving regular medical care). In too many cases, the lack of clear duties and lines of responsibilities results in situations where no one takes a leadership role in the child’s health care. Given the complex, long-term health needs of many children in foster care, concerted efforts must be made toward coordination.

*Medical records.* Virtually every pediatrician has encountered a child in foster care who arrives in their practice with no medical records or history. Fostering Connections requires that the states develop a plan to address how “medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record.” The AAP is aware that some states, such as Texas, are already exploring electronic health records for children in foster care. Because the need for consistent, complete medical

records is so critical among children in foster care, every state should be incentivized to examine ways to improve the collection, maintenance and sharing of such information. In addition, a strong state-federal partnership on this issue will ensure interface among such records as a child may move across the country and is cared for by another pediatrician in a different state.

In addition, there is a great need for better guidelines in states regarding who has access to a foster child's health information and under what circumstances. Health information may be needed not only by physicians and other health care providers, but also by social workers, foster parents, judges, educators, and others. The inability to share such information appropriately can lead to potentially devastating gaps in care for children. State plans should address provision of appropriately detailed medical information to a foster family upon placement or placement change; to the biological family upon reunification; to a prospective adoptive family who is seriously considering adoption of a particular child; to the adoptive family upon adoption; and to the youth upon aging out of the system.

*Continuity of Care.* The law directs state plans to include "steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care." The "medical home" refers to a system of patient-centered care in which one physician is responsible for coordinating the entire universe of care for the child. This includes coordinating care plans that may be developed by other physicians, monitoring the number and potential interaction of prescriptions, and ensuring that the caregiver is equipped to care for the child appropriately. The medical home is a critically important concept for children in foster care, given that nearly half of all children in foster care have chronic medical problems,<sup>2, 3, 4, 5</sup> and up to 80% have serious emotional problems.<sup>6, 7, 8, 9, 10, 11, 12, 13</sup> These health care challenges require concerted, coordinated efforts on the part of not only health care providers, but the entire child welfare system, to improve the health and well-being of the child. State plans should seek to establish a medical home for every child in foster care in order to maintain that continuity through placement changes.

*Oversight of Prescription Medication.* A 2006 report prepared by the Government Accountability Office found that 15 states identified the overuse of psychotropic medications as one of the leading issues facing their child welfare systems in the next few years.<sup>14</sup> Another key study demonstrated that in the Medicaid program, children in foster care were much more likely to use three or more psychotropic medications than children who qualified through the Supplemental Security Income program. Those data have shown alarming interstate variation in the prescription patterns of psychotropic medications for children across our nation.

<sup>2</sup>U.S. General Accounting Office. *Foster care: health needs of many young children are unknown and unmet*. Washington, DC: (GAO/HEHS-95-114); 1995.

<sup>3</sup>Takayama JI, Wolfe E, Coulter KP. Relationship between reason for placement and medical findings among children in foster care. *Pediatrics*. 1998;101(2):201-207.

<sup>4</sup>Halfon N, Mendonca A, Berkowitz G. Health status of children in foster care. The experience of the Center for the Vulnerable Child. *Archives of Pediatrics & Adolescent Medicine*. 1995;149(4):386-392.

<sup>5</sup>Simms MD. The foster care clinic: a community program to identify treatment needs of children in foster care. *Journal of Developmental & Behavioral Pediatrics*. 1989;10(3):121-128.

<sup>6</sup>Halfon N, Mendonca A, Berkowitz G. Health status of children in foster care. The experience of the Center for the Vulnerable Child. *Archives of Pediatrics & Adolescent Medicine*. 1995;149(4):386-392.

<sup>7</sup>Landsverk JA, Garland AF, Leslie LK. *Mental health services for children reported to child protective services*. Vol 2. Thousand Oaks: Sage Publications; 2002.

<sup>8</sup>Glisson C. The effects of services coordination teams on outcomes for children in state custody. *Administration in Social Work*. 1994;18:1-23.

<sup>9</sup>Trupin EW, Tarico VS, Low BP, Jemelka R, McClellan J. Children on child protective service caseloads: Prevalence and nature of serious emotional disturbance. *Child Abuse & Neglect*. 1993;17(3):345-355.

<sup>10</sup>Clausen JM, Landsverk J, Ganger W, Chadwick D, Litrownik A. Mental health problems of children in foster care. *Journal of Child & Family Studies*. 1998;7(3):283-296.

<sup>11</sup>Urquiza AJ, Wirtz SJ, Peterson MS, Singer VA. Screening and evaluating abused and neglected children entering protective custody. *Child Welfare*. Mar-Apr 1994;73(2):155-171.

<sup>12</sup>Garland AF, Hough RL, Landsverk JA, et al. Racial and ethnic variations in mental health care utilization among children in foster care. *Children's Services: Social Policy, Research, & Practice*. 2000;3(3):133-146.

<sup>13</sup>Pecora P, Kessler R, Williams J, et al. *Improving family foster care: findings from the Northwest Foster Care Alumni Study*. Seattle, WA: Casey Family Programs, available at <http://www.casey.org>; 2005.

<sup>14</sup>U.S. Government Accountability Office. *Child Welfare: Improving Social Service Program, Training, and Technical Assistance Information Would Help Address Long-standing Service-Level and Workforce Challenges*. Washington, DC: U.S. GAO; 2006.

Clearly, medication can be helpful to some children, but with the increasing use of these medications among children in general, there comes the added responsibility to ensure that children have access to an array of treatment strategies, from medication to community-based services that may augment or replace the need for medications in many circumstances. Furthermore, the failure to coordinate and provide continuity in services and the absence of clear guidelines and accountability to ensure that treatment decisions are in the child's best interest, create a greater risk that medications will be prescribed to control children's behaviors in the absence of individualized service plans that might offer the best chance for success. ACF's Program Instruction "encourage[d] States to pay particular attention to oversight of the use of psychotropic medicines in treating the mental health care needs of children." The AAP urges the agency to require every HOCP to include specific steps for monitoring the prescription of medication to children in foster care.

*Consultation Regarding Care.* Lastly, the Fostering Connections law directs states to indicate in the HOCP "how the State actively consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children." This provision is critical to improving systems of care for children in the child welfare system. Pediatricians and other health care professionals should be partners with child welfare workers in improving the health and wellbeing of their charges. States should provide a detailed explanation, algorithm, or flowchart of what systems are in place to ensure that medical decisions are made by the appropriate individuals and the coordination among all parties who are responsible, in whole or in part, for the child's health and medical care.

#### **Utilization of Plans**

The AAP urges the agency to examine ways in which state Health Oversight and Coordination Plans can be used by both the agency and the individual states to track and improve care. On the federal level, it is our hope that ACF will share the AAP's comments as potential guidelines for states embarking upon the development of plans. The agency should highlight particularly innovative plans as models for other states. We encourage ACF to make clear that these plans are not intended to be static documents but dynamic processes that help drive continuous quality improvement. States should consider using this planning process to help inform their Performance Improvement Plans under Child and Family Service Reviews as well as other periodic efforts to improve child welfare and foster care systems.

In closing, the American Academy of Pediatrics stands ready to assist Congress and the Administration on Children and Families in improving the health and wellbeing of children in foster care. The Academy has substantial expertise and specific resources regarding health care for children in foster care, including books, checklists and guidelines. We hope the Subcommittee and ACF will call upon the AAP as a resource both on the federal level and in assisting individual states to improve the health of the children in their care.

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#### **Statement of Amy Lemley, John Burton Foundation**

On behalf of the John Burton Foundation for Children Without Homes, please accept this submission for the record to the Hearing on the Implementation of the Fostering Connections to Success and Increasing Adoptions Act to be held in the Subcommittee on Income Security and Family Support on September 15, 2009.

The John Burton Foundation offers the following two recommendations regarding the implementation of PL 110-351:

##### *Guardianship Assistance Program (GAP) Reimbursement*

Program Instructions CB-PI-08-007 for the Guardianship Assistance Program (GAP), issued on December 24, 2008, state that states may only claim GAP reimbursement starting the first day of the first quarter in which their Title IV-E plan was approved and only for cases in which a child exits from IV-E foster care into a kinships arrangement.

This has the effect of excluding the over 14,000 children in California's Kinship Guardianship Assistance Program (Kin-GAP) from services provided by IV-E kinship care, including Medicaid eligibility, along with thousands of other children in established state-funded guardianship assistance programs. This was not the intent of the legislation and the John Burton Foundation joins with the National Governors Association, the National Conference on State Legislatures, the National Association of Counties and the American Public Human

Services Association in calling for the Administration on Children and Families to rescind the Program Instructions and issue new instructions that allow states to claim current eligible cases retroactive to October 7, 2008, as intended by Congress.

*The Definition of "Supervised Setting" in FCSIAA Regulations*

The Fostering Connections to Success and Increasing Adoptions Act permits, for the first time, reimbursement for "a supervised setting in which the individual lives independently" for youth between the ages of 18 and 21, and requires that regulations be promulgated to define this setting. The John Burton Foundation recommends that these regulations reflect current best practices for semi-supervised living settings, including but not limited to: individual scattered-site apartments, clustered supervised apartments, shared homes, boarding homes and host homes. Similarly, the regulations should permit states the flexibility to individualize these settings and ensure they help youth move towards permanency and other well-being goals.

California has tested this approach in its implementation of the Transitional Housing Placement Program (THP-Plus) a state-funded program that provides 24 months of affordable housing and supportive services to former foster youth, ages 18 to 24. Of the 2,047 youth who participated in THP-Plus in Fiscal Year 08-09, 48% lived in individual scattered-site apartments, 37% lived in clustered supervised apartments and 15% lived in host homes. Offering THP-Plus in a range of settings has allowed the diverse developmental needs of youth to be met. THP-Plus participants compare favorably to the general population of former foster youth in a series of measured criteria. THP-Plus has also provided older youth with the opportunity to live in age-appropriate settings where they can apply and develop their independent living skills.

California currently has pending legislation to extend federal support for youth in foster care to age 21. This legislation, Assembly Bill 12, includes a range of living settings for young adults, age 18 to 21. The John Burton Foundation requests that federal regulations which define "supervised setting in which the individual lives independently" mirror the definitions included in AB 12 (attached).

Thank you very much for your consideration of these issues. If you have any questions, please contact me at 415-693-1322.

Sincerely,

Amy Lemley, Policy Director

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**Statement of Beverly Tran**

My name is Beverly Tran and I rise to this occasion to thank you for listening to the voice of the people, for it has been silenced for far too long. I share with you my sole concern with the implementation of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), and that is a lack of checks and balances.

***Understanding the failure of implementation***

Since 2001, I have been seeking the explanation of parental rights. More than just a statutory definition, I sought to understand its epistemology beyond the general consensus of social theory.

Why had there yet to be demonstrated a logically constructed, conceptual and operational formula for the determining factor of parental rights? My only recourse was to deconstruct the policies of child welfare. What I found was the existence of a well-founded methodology in determining parental rights, including its clear and concise evidentiary standard. The foundation of parental rights had been laid many centuries ago in property law, theorized through microeconomics.

The reason child welfare, specifically child protective services, foster care and adoption, in its current state, will never meet its end goal of functioning in the best interest of the child with the current implementation of this Act, is because no one understands what it is that is being protected. It is not the child, per say, but the future of the child to mature to be a tax-paying contributor to society.

No one understands that checks and balances of the child welfare system do not exist.

### **Child welfare as a frontier industry**

Child welfare must not be understood as an industry that was constructed to maximize the profits of society through the best interests of the child, but it must be understood as a profit-maximizing industry that has schemes to increase its inputs, throughputs and outputs to ensure the economic sustainability of the public and private contractual arms of the states. Inputs are children who enter child welfare; throughputs are foster children; and, outputs are those children that exit the system, whether through reunification, adoption, maturation or attrition.

The Fostering Connections Act can be properly implemented, but only if this Congress understands that there needs to be a substantial change in its current operations by implementing checks and balances.

### **A lack of market regulation**

Since foster care and adoption statutorily became a fully, publicly funded industry in 1974, it has operated strictly with federal funding and regulations, only in the form of financial penalties if the market shows signs of weakness, as states must meet and exceed the previous year's federally mandated benchmark of the number of children under the auspices of the state to avoid financial penalties. The market is devoid of competition as the government is monopolistic with its statutory control and possesses sufficient authority to acquire the goods and procure the services, through the removal of the child by and through the removal of the legal rights to the grant of custody and guardianship.

Upon further examination, it will be demonstrated that it is the right of the state to grant the custody and guardianship, for it is the state that is the possessor of parental rights to the acquisition of goods.

Due to the lack of this understanding, federal and state policies have been improperly formatted and implemented. We, as a nation have witnessed the residual effects of a system devoid of oversight, and that is our financial system. Now, we are experiencing the second wave of fraud as our national leadership is fast asleep at the helm of the ship named health care.

Child welfare operates in a risk averse market, as it intentionally never included the oversight mechanism of accountability and transparency; there are no checks and balances, hence, no incurred liabilities from error.

The mechanical error that I have identified is the systemic deficiency of checks and balances, embedded deep within the ethos of foster care and adoption. Checks and balances, essential elements in tripartite governments, must be readily recognized as accountability and transparency.

### **No accountability**

If it has been determined that law and policy has been violated within the mechanical procedures of foster care and adoption, it is considered as an acceptable mistake, with a federally acceptable range of error of 0.10. This acceptable error is the destruction of a family.

Nothing is publicly reported, not even for the purposes of ameliorating future material and provisional violations of law and policy, particularly those committed under the color of law. This phenomenon is largely due to an inherent conflict of interest bred within the philosophical edifice of the child welfare system. Under the doctrine of *parens patriae*, the states attorney general have been granted the powers of parental rights through statutory declarations of commerce.

It thus becomes a contentious issue of intervention: "Do the states attorney general advocate to further a compelling governmental interest in the representation of the state and its contractual arms of child welfare, or do the states attorney general advocate for the citizen individuals who have been granted the gift of custody and guardianship? The child welfare system, in whole, incorporating all facets of the industry, functions on the fallacy of affirming the disjunct, that is, the government operates in good faith and there is no need to advocate for the citizen individuals who allegedly violated the granted gift of custody and guardianship.

Simply put, it is in the best interests of the child for government to invest in the profitable return of a future tax-paying, productive citizen, and not to advocate for the non-productive individual citizen, for that individual has violated the social compact in failing to contribute to the society as a whole, whether it be morally, intellectually, financially, or economically. Because of the belief government functions in good faith, there is no need to construct and implement a congruent system of checks and balances in child welfare. The crime of poverty has been justified.

### **Public disenfranchisement**

Where public access and voter participation into the mechanical process of this market are the checks, the general public is disenfranchised because child welfare

law and policies are neither put up for public discussion nor full disclosure. Even more so, a targeted population is specifically disenfranchised because children are not allowed the right to vote.

Child welfare protects and preserves itself by importing policies to obviate transparency and accountability, whereby, it has manufactured obfuscatory policies to terminate parental rights of the granted gift of custody and guardianship to “cloak” the industry of abuse and neglect.

That “cloak”, for which I reference, is laced with public policies to create the tapestry of public perceptions, to conceal the inner workings of the industry of child welfare. This cloak is impenetrable to empirical analysis, as it is hermetically sealed by the Freedom of Information Act, and the institutionalized belief that sealed information of child welfare policies furthers a compelling governmental interest. That compelling governmental interest is the general welfare of the public, now and in the future.

When the 1974 Child Abuse Prevention Treatment Act[i] was designed, a fatal flaw was inculcated into 1997 Adoption Safe Families Act, and its subsequent legislative actions. I speak again of the lack of checks and balances. This philosophical tenet is embedded deep within core of public belief, woven into the historical fabric of society and engrained into the academic discipline of policy analysis, where nothing could be of the contrary. Initial funding streams from Social Security Title I, Title II, Title IV–A, B, D and E, Title V and Medicaid Targeted Case Management (TCM), as well as others, were created to flow down to the states to care for abused and neglected children who were qualified as impoverished under the means test of Title IV–A under the Temporary Aid to Needy Families (TANF). Simply put, poverty is codified as abuse and neglect and the discipline of Social Work has generated the only literature of analysis, which has been mostly qualitative.

#### **No transparency**

Under the Eleventh Amendment of the United States Constitution, states possess sovereign immunity from prosecution of wrongdoing by the Federal Government. Immunity is then draped to circumvent accountability and transparency in non-reporting/non-disclosure through Freedom Of Information Act exceptions. Basically, anything dealing with errors in child welfare cases, more intuitively recognized as fraud, waste and abuse, is kept from the public for the protection of the child, justifying the lack of need for exclusionary databases and reporting protocol.

Due to the lack of transparency, federal and state policies have been improperly formatted and implemented. We, as a nation have witnessed the residual effects of a system devoid of oversight, and that is our financial system. Now, we are experiencing the second wave of attack on our nation’s economic security as our national leadership have been fast asleep at the helm of the ship named health care. The monster named Medicaid fraud has victoriously raised its ugly head, with no one to battle, until now.

#### **Sunshine initiatives**

I take this time to honor a great man, former U.S. Attorney General Michael B. Mukasey, for personally inspiring me to continue my work to end Medicaid fraud in child welfare. He is the first leader to listen and speak out on the need for investigation on the levels of political corruption, fraud, waste and abuse in the U.S. Administration for Children and Families through the early initiatives of the Health Care Fraud Enforcement Task Force (H.E.A.T.).

I take this time to thank the dedication of U.S. Attorney Eric H. Holder, Jr., U.S. DHHS Secretary Kathleen Sebelius, U.S. DHHS Inspector General Daniel R. Levinson for listening to the people and developing the Strike Forces to end Medicare fraud in child welfare.

As it stands, there is no system of “checks and balances” to maintain the integrity of operations and best interests for all stakeholders involved in the implementation of this Act. The amount of power and money involved in child welfare is massive, involving multiple funding streams of Social Security and Medicaid, yet fails to the levels of fraud, waste and abuse of taxpayer dollars. Poverty is codified as the crime of abuse and neglect for eligibility of a child entering foster care is strictly based on being impoverished. Hence, as poverty increases so shall the number of child removals to foster care. Billions of dollars of federal fraud were found through only cursory audits conducted by the U.S. Department of Health and Human Services (DHHS) Office of Inspector General (OIG) and U.S. Department of Justice, but this shall be no longer for the people have been heard.

The OIG has identified a number of state financing arrangements and other revenue-maximization tactics that inappropriately increase Federal Medicaid payments to States. Children are being double-billed, provided for unnecessary medical serv-

ices and phantom programs are funded that bill fictitious children and services. This is what is called fraud, or more intuitively, federal false claims. Every year, lawyers across the nation are settling an increased number of lawsuits against states, child placing agencies and foster parents to the tune of tens of billions of taxpayer dollars, all because the nation has not had the opportunity to be exposed to the child welfare industry for what it is: a market.

U.S. DHHS funded organization, Council On Accreditation, has nothing to do with children and families as they only lobby for their due-paying, state contracted, private agencies. An accreditation organization is not supposed to be established to advocate for transgressors of law, but it does.

It is time to hold these privatized child placing agencies to the same standards they hold the guardians of children. If the agencies possess the empowering authority to remove children and advocate termination of parental rights, then, in the same wielding of justice, the state should possess the empowering authority to remove licenses and terminate contractual relationships, and effectuate contractual debarment with these child placing agencies. The regulatory mechanism of the OIG exclusion database is in place but is not utilized.

### ***Implementation recommendations***

#### **Improve regulation**

As these child welfare programs function devoid of any accountability, the first instance of oversight would be to effectuate financial sanctions and contractual debarment with privatized agencies through the state licensing agencies. Privatized agencies operate as not-for-profit, therefore excluding them from external audits. Typically, child placing agencies self-report on an honor system because it is too costly for a state to retain the manpower and resources to properly ensure that each entity is in compliance with the requirements or receiving federal funds pursuant to the Office of Management and Budget Circular A-133. It becomes more cost-effective for a state to turn its head and allow fraudulent billing to occur than to enforce regulation.

The largest federally funded component of child welfare is not the Social Security Title IV-E, as everyone would like to believe, it is Medicaid: Targeted Case Management and Optional Targeted Case Management. States need to decrease its percentage in the federal formula for Medicaid funding. Right now it is approximately 50%. It becomes more cost effective for a state to continue sinking money into a dysfunctional child welfare system than come into federal compliance with its operations, such as enforcing existing accountability statutes in dealing with fraud. Assumption may be formulated that some states use a portion of the Federal Funding Percentage to meet its State Funding Percentage. This can only be disproved with regulation.

#### **Encourage State Medicaid Fraud Units to prosecute and recover**

State Medicaid Fraud Units need to finally step up to the plate and start aggressively going after Medicaid fraud in child welfare. If the Attorney General is ever able to release himself from the statutory constraint of only advocating for transgressors of law, the recovery percentage of the federal portions of the fraud would be situated at 10%, bringing back in billions of lost funds from over the past few years and demonstrating exemplary standards to deter future fraudulent transgressions.

These state units can be encouraged to work with its citizens, as they may be the eyes and ears of regulation through public awareness campaigns, whistleblower litigations, and state Medicaid False Claims statutes. As many abuse and neglect programs are riddled with fraudulent billing and poor or falsely generated performance reports, the only way of verifying this is to listen to the people.

#### **Promote the funding of public legal defense and grievance databases**

Unfortunately, one of the few ways a family can access medical, social, psychological services for children today is through a court classification of abuse and neglect. Social welfare assistance programs have been cut, but the only federal funding streams that has opened up to provide for those who need help has been foster care. It has come to the point where there are no other options.

A blueprint for accountability and transparency was never conceived in child welfare. When a social system has a zero error rating in decisions to remove children and/or terminate parental rights, no databases of grievances, sanctions, fines, contractual debarment, including violations of material provisions of law and policy, a red flag should immediately be raised. There is a greater possibility of being not found of murder than it is being not found guilty of child abuse and neglect, as the

jurisprudence of dependency courts are unparallel to traditional courts, the adjudication standard being guilty, until proven innocent.

It is my hope that this Congress will direct a portion of this funding to legal defense and for the construction of a grievance database, similar to what is called for in the U.N. Intercountry Adoption Treaty to foster connections between the people, the U.S. DHHS OIG and U.S. DOJ AG to stop Medicaid fraud in child welfare.

#### **Reinstatement of parental rights**

If a system is to be viewed as balanced, there is always a counter-balance. This would be the reinstatement of parental rights. Currently, there are four states, which have some form of limited exceptions to reinstatements. Technology has removed the barrier of contact and time. In light of the crux of my position on Medicaid fraud, there does exist improper and unnecessary removals of children and termination of parental rights, by what is considered as being legally kidnapped. There are times where it may take an individual more than 12 months to obtain the help needed to succeed in life. We must understand the severance of a legacy has not proven to be the best means in dealing with the hardships of others. Let us take the time to reunite these children with the degrees of consanguinity and affinity so they may have a chance to connect to a profitable and successful future for their own best interests.

With sincerity and serenity,

Beverly Tran

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#### **Statement of Center for Law and Social Policy (CLASP)**

Thank you for the opportunity to submit a statement for the record regarding the September 15, 2009 Hearing on the Implementation of the *Fostering Connections to Success and Increasing Adoptions Act*. CLASP is a national nonprofit that works to improve the lives of low-income people. CLASP's mission is to develop and advocate for policies at the federal, state and local levels that improve the lives of low income people. We focus on policies that strengthen families and create pathways to education and work. To carry out this mission, CLASP conducts research, provides policy analysis, advocates at the federal and state levels, and offers information and technical assistance on a range of family policy and equal justice issues for our audience of federal, state, and local policymakers; advocates; researchers; and the media. CLASP does not receive any federal funding and is funded primarily by major national foundations.

The bipartisan *Fostering Connections to Success and Increasing Adoptions Act*, signed into law last October, represents the most significant federal reforms for abused and neglected children in foster care in over a decade. CLASP applauds the work of this subcommittee that went into the developing and passing this critical piece of legislation. The *Fostering Connections to Success and Increasing Adoptions Act* would not have been possible without the tireless work of Chairman McDermott, key Members of this subcommittee including former Ranking Member Weller, the Senate Finance Committee and Congressional staff. As Chairman McDermott noted in his opening statement at the September 15, 2009 hearing on the implementation of *Fostering Connections to Success and Increasing Adoptions Act*, this law "represents the best of Congress. It shows what can be achieved when both sides come together to work in good faith to address a problem."

The *Fostering Connections to Success and Increasing Adoptions Act* will help hundreds of thousands of children and youth by promoting permanent families for children in foster care; improving outcomes for children and youth involved with the child welfare system; increasing support for American Indian and Alaska Native children; and improving the quality of staff working with children in the child welfare system. Below, we will look at the provisions of the act in each of these areas, highlighting some examples of implementation efforts that are underway.

#### **Promoting Permanent Families for Children in Foster Care**

##### *Identify and Provide Notice to Relatives*

The *Fostering Connections to Success and Increasing Adoptions Act* helps ensure that relatives are notified, allowing grandparents and other relatives to get involved early in the child's case. The state child welfare agency must exercise due diligence to identify and provide notice to all adult grandparents and other relatives of each child within 30 days of the child's removal from his or her parent(s)' custody. Some-

times relatives can keep the child out of foster care. A relative who cannot provide a placement for a child may be able to participate in the child's care in other important ways, such as by maintaining a relationship with the child or taking the child to doctor's appointments, extracurricular activities or visits with birth parents.

Prior to the *Fostering Connections to Success and Increasing Adoptions Act*, many states made, in practice, some attempt to locate and notify adult relatives of children being removed from their parent's custody, these attempts were often only cursory. We learned that in addition to depriving the child of the stability and continuity that placement with a relative could provide, bypassing the notification of relatives could prove quite tragic should someone later seek to adopt the child. All too often, a diligent search for relatives occurred only at the time parental rights were terminated and adoption was underway when the child had likely bonded with non-relative foster parents. Additionally, the sad reality was that relatives sometimes did not learn of a child's placement until after an adoption was finalized.

Recognizing these concerns, a number of states had enacted laws prior to the *Fostering Connections to Success and Increasing Adoptions Act* requiring that adult relatives be notified when a child is removed from his or her parent's custody. Since the enactment of the act, additional states have introduced or enacted similar legislation.

#### *Family Connection Grants*

Seven months after enactment, a Request for Proposals was issued allowing states, tribes and non-profit organizations to apply for Family Connection Grants.

Family Connection Grants are competitive grants that will allow applicants to create or enhance programs that will connect children in or at risk of entering foster care to their families. State, local, and tribal child welfare agencies and non-profit agencies that have experience serving children in foster or kinship care can apply for the grants to establish or expand Kinship Navigators, Family Group Decision Making, Intensive Family Finding, or Residential Family-Based Substance Abuse Treatment programs. A portion of the funds are reserved each year for funding Kinship Navigator programs.

A number of states and other entities have applied for grants for different activities, some to take action in more than one category. It is expected that the awards will be announced by the Department for Health and Human Services (HHS) by the end of the week.

#### *Kinship Guardianship Assistance*

Consistent with a considerable body of research that indicates when children can't be raised by their parents they often do best with relatives, 37 states and the District of Columbia offer support to help children leave foster care to live permanently with relative guardians. The *Fostering Connections to Success and Increasing Adoptions Act* provides federal support to build on existing programs and to encourage additional states to implement similar programs.

Under the new Kinship Guardianship Assistance Program, states have the option to use federal Title IV-E funds for kinship guardianship payments for children who have a strong attachment to and are cared for by prospective relative guardians who are committed to caring for these children permanently when they leave foster care. To be eligible for the kinship guardianship assistance payment, children must be eligible for federal foster care maintenance payments while living in the home of a relative for at least six consecutive months in foster care. There must also have been a determination by the state agency that return home and adoption are not appropriate permanency options for the child. Children 14 and older must be consulted about the kinship guardianship arrangement. Siblings may be placed in the same home and receive support even if they do not meet other eligibility requirements. Children eligible for these payments are also automatically eligible for Medicaid, as are children in foster care and those who receive adoption assistance payments.

CLASP is happy to see that a number of states have introduced or enacted legislation that would allow them to operate a Kinship Guardianship Assistance Program. While fewer states have submitted the requisite state plan amendments that will allow them to draw down Title IV-E funds to operate such programs (and, as we understand it, only Rhode Island's plan amendment has been approved as of the date of the hearing), we view the state legislative activity as a positive indicator of states' interest in the option.

CLASP and the Children's Defense Fund in collaboration with 18 other national organizations developed a Question and Answer guide intended to assist with implementation of the provisions impacting children being raised by grandparents and other relatives. *New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing*

*Adoptions Act of 2008* is available on the CLASP website at: [http://www.clasp.org/issues/pages?type=child\\_welfare&id=0001](http://www.clasp.org/issues/pages?type=child_welfare&id=0001).

#### *Licensing Standards for Relatives*

The *Fostering Connections to Success and Increasing Adoptions Act* codifies existing U.S. Department of Health and Human Services (HHS) guidance stating that agencies may, on a case-by-case basis, waive non-safety related licensing standards when licensing a relative's home. For example, this may include waiving the requirement that each child have a separate bedroom if the relative is taking in siblings or waiving the requirement that a home have a certain amount of square footage per person. The new law also requires HHS to report to Congress within two years on how states are using the ability to waive non-safety standards and make recommendations as to how additional barriers to licensing relatives' homes can be eliminated. Guidance issued on June 3, 2009 (ACYF-CB-PI-09-06) requires that states provide to HHS by December 15, 2009 information related to licensing, to the extent practicable, that will inform the report to Congress.

Information from this report may suggest additional opportunities for allowing more children in foster care to be safely placed in foster family homes with relatives and be eligible for federal support.

#### *Adoption "De-link"*

As of October 1, 2009, states with federal adoption assistance programs will be able to claim federal funds for more children with special needs by "de-linking" a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements. Next month, states must begin phasing in an expansion of the program to reach more eligible children with special needs, beginning with older children and children who already have been in care for five years and their siblings, who often are the most difficult to place for adoption. Other children will be phased in by age over the next nine years so that all eligible children with special needs will be covered by October 1, 2017. Guidance issued on August 26, 2009 (ACYF-CB-PI-09-10) provides states and tribes with information pertaining to the changes in the Title IV-E adoption assistance eligibility requirements resulting from the *Fostering Connections to Success and Increasing Adoptions Act*.

#### *Increased Incentives for Adoption*

The *Fostering Connections to Success and Increasing Adoptions Act* reauthorizes the Adoption Incentive Program for five years and enhances the incentives available to promote the adoption of children from foster care. The act updates to FY 2007 the adoption baseline above which incentive payments are made, doubles the incentive payments for adoptions of children with special needs and older children adoptions, and gives states 24 months to use the adoption incentive payments. The act also permits states to receive an additional payment if the state's adoption rate exceeds its highest recorded foster child adoption rate since 2002. On September 14, 2009 HHS announced that it had awarded \$35 million in adoption incentive payments to 38 states and Puerto Rico for the first year that the enhanced adoption incentives under the *Fostering Connections to Success and Increasing Adoptions Act*.

#### *Sibling Connections*

Vital to the advocacy efforts that helped move the *Fostering Connections to Success and Increasing Adoptions Act* through Congress were the voices of youth who were in or had been a part of the child welfare system. They shared their stories and poignantly made the case for reforms. The request for support in maintaining connections with their siblings was voiced by many of the youth. The act takes important steps in response.

State agencies must make reasonable efforts to place siblings together, whether in foster, kinship guardianship, or adoptive placements, unless placing them together would be contrary to their safety or well-being. If the siblings are not placed together, the agency must make reasonable efforts to ensure that the siblings maintain their connections to each other through frequent visitation or other ongoing interaction. An exception to maintaining connections is permissible only if such contact would be contrary to the safety or well-being of one or more of the children. Sibling connections are significant to a child in foster care's emotional and social development since siblings often provide the connection and stability that is no longer available from the child's parents.

We know that, prior to the *Fostering Connections to Success and Increasing Adoptions Act*, many states had policies in place to help facilitate sibling connections. In response to the act states may have to update some of these policies to ensure that reasonable efforts are made and to incorporate the documentation requirements. Since the enactment of the *Fostering Connections to Success and Increasing Adop-*

tions Act, a number of states have also introduced or enacted legislation pertaining to sibling connections.

### **Improving Outcomes for Children and Youth Involved with the Child Welfare System**

#### *Extension of Care Beyond Age 18*

Few 18 year olds in the general population are prepared to support themselves. Approximately half of all young people between the ages of 18-24 still live with their parents. This is not an option for youth who are in foster care. A youth struggling with a history of maltreatment and who has no family to turn to for support is expected to make it on his own. Acknowledging this reality, the *Fostering Connections to Success and Increasing Adoptions Act* gives states the option to claim federal funds for Title IV-E eligible young adults in foster care, guardianship and adoptive homes beyond their 18th birthday to the age of 19, 20, or 21 beginning on October 1, 2010. With limited exceptions, states can currently only claim federal assistance for children and youth up to their 18th birthday. States will only be federally reimbursed for those young adults who are eligible for Title IV-E assistance payments and who are completing secondary education or in a program leading to an equivalent credential; enrolled in an institution that provides post-secondary or vocational education; participating in a program or activity designed to promote, or remove barriers to, employment; employed for at least 80 hours per month; or, if a child's medical condition makes him or her incapable of engaging in these activities, updated information on their condition must be maintained in the child's case plan.

The National Foster Care Coalition along with a number of other organizations, including CLASP, developed a Frequently Asked Questions guide intended to aide states in implementing the extension of care beyond age 18 and other provisions that will most directly impact youth in foster care. The guide, *Fostering Connections to Success and Increasing Adoptions Act: Frequently Asked Questions on the Provisions Designed to Impact Youth and Young Adults*, can be accessed on the CLASP website at: <http://www.clasp.org/issues/pages?type=child+welfare&id=0001>

A number of the groups that helped develop the FAQ continue to work together to develop additional resources to assist with implementation efforts. The regulations required by the *Fostering Connections to Success and Increasing Adoptions Act* to define "supervised setting in which the individual is living independently" have not yet been issued but will be important for moving implementation efforts forward.

#### *Helping Older Youth Successfully Transition from Care to Independence*

Like all young adults, those youth who have spent time in foster care, often need some assistance in preparing for adulthood. They may need help deciding between various educational and employment opportunities or setting up utilities in their first apartment. The *Fostering Connections to Success and Increasing Adoptions Act* helps ensure that youth in foster care have the assistance they need in planning for their futures. As part of the case review system, the act requires that, in the 90-day period immediately prior to when a youth turns 18 (or 19, 20 or 21 as the state may elect), a caseworker and any other appropriate representatives work with the child to develop a personalized transition plan that is as detailed as the child chooses. The plan must include specifics on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services. This transition plan is required for *all* youth for whom foster care maintenance payments are being made. Youth who have returned home or for whom kinship guardianship assistance or adoption assistance payments are being made must also have a transition plan if they are also receiving Chafee Program benefits or services.

The act also clarifies that children who leave foster care at age 16 or older for kinship guardianship are eligible under the John H. Chafee Foster Care Independence Program independent living services for educational and training vouchers (ETVs).

#### *Educational Stability and Attendance*

The *Fostering Connections to Success and Increasing Adoptions Act* recognizes the importance of educational stability and continuity and takes important steps toward improving educational outcomes for children involved with the child welfare system. The law requires states to coordinate with local education agencies to ensure that children remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interests. If such placement is not in the child's best interests then the state must ensure that the child is imme-

diately enrolled in a new school and that all of the child's educational records are transferred promptly.

The act also requires that states provide assurances in their Title IV–E state plans that every school–age child in foster care, and every school–age child receiving an adoption assistance or subsidized guardianship payment, is attending elementary or secondary school or has completed secondary school. The *Fostering Connections to Success and Increasing Adoptions Act* also gives states the option to include school-related transportation costs as a cost related to the maintenance of a child in foster care, rather than as an administrative cost.

Joint guidance may be needed from the Department of Education and HHS addressing how schools and child welfare agencies can best work together to serve the children and youth involved with the child welfare system.

#### *Health Oversight and Coordination*

The *Fostering Connections to Success and Increasing Adoptions Act* requires each state work through its state child welfare agency and the state agency that administers Medicaid and in consultation with pediatricians, other health care experts, and experts in and recipients of child welfare services to create a plan to ensure oversight and coordination of health care for children in foster care. The plan must include a strategy to identify and respond to the health care needs of children in foster care, including mental and dental health needs. States were required to submit their state plans with the health oversight and coordination plan—unless they were permitted a delay for required state legislation—by June 30, 2009.

#### **Increasing Support for American Indian and Alaska Native Children**

##### *Direct Access to Title IV–E for Indian Tribes*

As of October 1, 2009, Indian tribes and tribal consortia will be able, for the first time, to directly access Title IV–E funds to administer their own foster care, kinship guardianship and adoption assistance programs. Prior to the *Fostering Connections to Success and Increasing Adoptions Act*, Indian tribes could only access Title IV–E funds through an agreement with a state government but fewer than half of the federally recognized tribes had such an agreement. Direct access will help extend important Title IV–E services and protections—many of those provided by *Fostering Connections to Success and Increasing Adoptions Act*—to more American Indian children.

73 tribal entities have indicated that they intend to directly operate their own programs. 15 have already applied for development grants in preparation for operating Title IV–E programs.

#### **Improving the Quality of Staff Working with Children in the Child Welfare System**

##### *Extending Federal Support for Training*

The child welfare workforce faces a number of challenges including excessive case-loads and high turnover. The *Fostering Connections to Success and Increasing Adoptions Act* took important steps toward enhancing the workforce by allowing states to claim, on a phased in basis, federal funding for short-term training of several groups who could not previously be trained with Title IV–E funds: relative guardians, staff of private agencies and courts, and attorneys for parents and children and guardians ad litem and court appointed special advocates working with children in the child welfare system. Providing federal support for the short-term training of these additional groups is more consistent with the realities of child welfare practice yet there is more that must be done to improve the child welfare workforce to ensure that staff working with all children in child welfare will have access to federally supported training.

#### **Implementation Challenges Exist but There is Much to Build On**

There is evidence that important strides have been made and are being taken in implementing the provisions of the *Fostering Connections to Success and Increasing Adoptions Act* to ensure that children truly benefit from the new law. While some of the improvements made by the act will take effect and become options over time, it is important to note that the majority of the requirements and options created by the act took effect immediately upon enactment. As highlighted above, states have demonstrated that they are working to implement these provisions. Advocates have also acted to help facilitate prompt, effective implementation. Since the *Fostering Connections to Success and Increasing Adoptions Act* became law a number of resources including guides, fact sheets and power points have been developed. Several of these resources can be accessed on the CLASP website at: [http://www.clasp.org/issues/pages?type=child\\_welfare&id=0001](http://www.clasp.org/issues/pages?type=child_welfare&id=0001)

States have reported experiencing some challenges in implementing various aspects of the *Fostering Connections to Success and Increasing Adoptions Act*. A number of these challenges are attributable to the economic crisis and others result from the need for guidance. In spite of these challenges, legislation to implement numerous provisions of the act has been introduced or enacted in many states. It is important to note that legislation may not be required in all states for all provisions. Instead some states may have already had in place, prior to enactment, laws that are in compliance with one or more of the requirements in or that would allow them to take the options available through the *Fostering Connections to Success and Increasing Adoptions Act*. Some states may have been able to modify existing policies that to ensure their full compliance with the act. It is hoped that HHS will actively consult with states, tribes, advocates and other stakeholders in order to continue moving implementation forward to help improve outcomes for children and families.

There are important opportunities for Congress to help ensure that the promises of the *Fostering Connections to Success and Increasing Adoptions Act* are realized by children and families. First, Congressional Members can provide leadership in their states and encourage that implementation move swiftly and that options—particularly the kinship guardianship assistance and extension of care beyond age 18 options—are taken advantage of as Congress intended.

Equally important, this subcommittee should take the opportunity to build on and complement the *Fostering Connections to Success and Increasing Adoptions Act* by addressing additional changes needed at the federal level to improve outcomes for children and families. As so many of those who provided leadership for this legislation said as it was being developed, the *Fostering Connections to Success and Increasing Adoptions Act* makes critical strides on behalf of children in foster care, but there is more to be done to ensure the safety, permanence and well-being of children.

The provisions in the *Fostering Connections to Success and Increasing Adoptions Act* will help achieve better outcomes for children who have spent time in foster care by helping to mitigate the trauma of foster care and by helping children move safely into permanent families. However, the Federal Government must do more to prevent child abuse and neglect and to avoid placement in foster care in the first place. Currently federal fiscal structures are not well-aligned with prevention—most federal funding is focused on intervening only after a child has been removed from his or her home not on providing sufficient resources to develop the front-end of the continuum of services and supports children and families need. We must build on the *Fostering Connections to Success and Increasing Adoptions Act* and create a child welfare system that offers a continuum of services that prevents abuse and neglect from occurring in the first place, as well as provide treatment and support for those, who despite our best efforts, experience maltreatment.

Federal investment and leadership in child welfare must do the following:

- Increase prevention and early intervention services that help keep children and families out of crisis;
- Increase specialized treatment services for those children and families that do experience crisis;
- Increase services to support families after a crisis has stabilized (including birth families, as well as kinship and adoptive families created when parents cannot care for their children);
- Enhance the quality of the workforce providing services to children and families; and
- Improve accountability both for dollars spent and outcomes achieved.

The *Fostering Connections to Success and Increasing Adoptions Act* makes a down payment on our children's future. CLASP thanks you for your leadership and looks forward to continuing to work with you. Together we can create a child welfare system that offers a continuum of services that prevent abuse and neglect from occurring in the first place, as well as provide treatment and support for those, who despite our best efforts, experience maltreatment.

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#### **Statement of Children's Defense Fund**

The Children's Defense Fund (CDF) appreciates the opportunity to submit this written statement on implementation of the *Fostering Connections to Success and Increasing Adoptions Act* of 2009. We ask that it be added to the record of the September 15, 2009 Hearing on the Implementation of the *Fostering Connections to*

*Success and Increasing Adoptions Act* held by the Ways and Means Subcommittee on Income Security and Family Support.

The Children's Defense Fund's *Leave No Child Behind*® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. The Children's Defense Fund provides a strong, effective and independent voice for all children of America who cannot vote, lobby or speak for themselves. CDF pays particular attention to the needs of poor and minority children and those with disabilities. CDF is a private non-profit organization and has never taken government funds.

CDF's advocacy for improved outcomes for children who are abused or neglected or at risk of maltreatment predates the passage of the *Adoption Assistance and Child Welfare Act of 1980*. Important steps have been taken since that time to improve outcomes for these children and their families, but enormous challenges remain. Therefore, it is particularly exciting to be able to thank you for the important improvements for children in foster care that you passed last fall in the *Fostering Connections to Success and Increasing Adoptions Act*. They represent the most significant reforms for children who are abused and neglected and in foster care in more than a decade. These improvements, when fully implemented, will promote the safety, permanence and well-being of hundreds of thousands of children in foster care across the country.

#### **Improvements Made Through the Fostering Connections to Success and Increasing Adoptions Act**

When the Children's Defense Fund testified before this Subcommittee in February 2008 on improving the child welfare system, at the time the *Invest in KIDS Act* and other legislation was being considered, we emphasized that improvements for children and families were needed in five key areas: prevention, specialized treatment and attention to basic needs, enhanced permanency options and post-permanency services, improvements in the quality of the child welfare workforce, and increased accountability for improved child outcomes and system improvements. While the job is not done, the *Fostering Connections to Success and Increasing Adoptions Act* holds promise for children to truly benefit from improvements in most of these areas. States, with support and sometimes prodding from private agencies, advocates, relative caregivers and youths who have been in foster care, have begun to issue guidance and proposed legislation to implement new programs, practices and policies that will help to improve outcomes for children.

Groups of advocates and others have come together to develop guides and pool resources in several areas to assist with implementation of the Act's new provisions. See, for example, *New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing Adoptions Act of 2008*, available at [www.childrensdefense.org/FCSIAAGuide](http://www.childrensdefense.org/FCSIAAGuide) and *Frequently Asked Questions on the Provisions Designed to Impact Youth and Young Adults* available at [www.nationalfostercare.org/pdfs/NFCC-FAQ-olderyouth-2009.pdf](http://www.nationalfostercare.org/pdfs/NFCC-FAQ-olderyouth-2009.pdf).

As Ms. Jacqueline Johnson Pata, Executive Director of the National Congress of American Indians, testified at the Subcommittee's hearing on September 15, there has also been close collaboration among organizations representing Indian tribes, tribal consortia and other national organizations that has helped to promote the opportunity Indian tribes and tribal organizations and consortia have, effective October 1, 2009, to obtain direct access to the federal support provided by the Title IV-E Foster Care, Guardianship Assistance and Adoption Assistance Programs. This is a long overdue reform. It is encouraging that about 73 tribal entities from seven out of the ten federal regions have expressed their intent to directly operate Title IV-E programs and 15 actually have applied for development grants provided under the act to help support their Title IV-E readiness activities for two years. Many American Indian and Alaska Native children stand to benefit from the protections, services and assistance provided under the new Act and many of the initiatives we describe below.

There also have been collaborative implementation efforts in the states, encouraged and supported in some cases by national and local foundations. Some have focused broadly on the Act and others on specific provisions. For example, the Commissioner of the New York State Office of Children and Family Services convened "A Statewide Roundtable on Subsidized Guardianship in New York State" earlier in the year, and similar forums have been held in other states. The new Act also has prompted new collaborative efforts among child welfare and other child-serving agencies that touch the lives of the children in the child welfare system, most notably the education and health care systems. In other states efforts are being made

to get these conversations started. The Act has stimulated excitement about the opportunity for reform and helped to make the case, in these very tough economic times, that these new reforms to benefit children and youths cannot be ignored or postponed. These children and youths have waited long enough. As Subcommittee Chairman McDermott said in his opening statement at the hearing on September 15, "Children in foster care cannot wait for a time when reform is convenient."

Below we highlight some of the changes in practice, program and policy that are being pursued as a result of the *Fostering Connections to Success and Increasing Adoptions Act* and that build on recommendations CDF has shared with you in the past, as well as references to some implementation activities that are underway.

#### ***Enhancing Prevention, Specialized Treatment and Supportive Services for Children***

Although many of the provisions in the *Fostering Connections to Success and Increasing Adoptions Act* are focused on children and youth already in foster care, there are some that will help to keep children out of foster care and safely with their birth family or members of their extended families.

#### **Family Connection Grants**

The Family Connection Grants, authorized under the *Fostering Connections to Success and Increasing Adoptions Act*, should be awarded by the Children's Bureau in the Department of Health and Human Services (HHS) by the end of September. They will give states, tribes and non-profit organizations the opportunity to engage in activities to prevent children from entering foster care and offer children and families some of the basic supports and specialized treatment they need. Even the prospect of applying for Family Connection grants has encouraged collaboration on behalf of this group of vulnerable children. We are familiar with several examples where university staff collaborated with agencies in the development of the grant applications and others where relative caregiver organizations joined with public agencies.

Grants for Kinship Navigator Programs will help link relatives with support groups, respite care programs and other services. We have learned about a number of states and caregiver groups that have applied for such grants. Relative caregivers report that one of their greatest challenges in raising children and keeping them out of foster care is getting accurate information about the benefits and services that are available to the children. In some cases the caregivers have been away from parenting for a while and in others they have never had contact with some of the service systems they need to approach for the children, such as mental health and special education. The Kinship Navigator Programs will help them get their children what they need.

Family Group Decision-Making meetings, which can also be supported under the Family Connection Grants, will bring family members and others familiar with the child and family together as decisions are being made and help them work together to prevent the need for children to enter foster care. These meetings also have been used effectively to help ensure that children return home more promptly from care and, when that is not possible, to help identify other permanency options for the child.

Grants for comprehensive family-based substance abuse treatment will help families get the treatment they need without requiring young children to be separated from their families and can also be used effectively to facilitate reunification. There are examples already where these activities are being used to improve outcomes for children, and it is so important that we will have an opportunity to learn more about what works in these areas from the Family Connection Grants.

#### **New Attention to Health and Education**

The steps taken in the *Fostering Connections to Success and Increasing Adoptions Act* to improve the basic health and education of children in foster care will help ensure that special needs of children in these areas will be identified. Improvements in children's health and education also will improve children's opportunities for success when they leave care.

**Education Stability and Attendance.** The Act requires state child welfare agencies to improve educational stability for children in foster care and ensure that they are attending school. It requires the agencies to coordinate with local education agencies to ensure children remain in the school in which they are enrolled at the time of placement into foster care, unless that would not be in the child's best interests. If it is not, the state must ensure the child's immediate enrollment in a new school with all of the educational records of the child provided to that new school in a timely fashion. The Act provides some help with transportation costs to assist children in remaining in their original schools. States also must provide assurances

in their Title IV–E state plans that every school-age child in foster care or who is receiving an adoption assistance or subsidized guardianship payment, with help from Title IV–E, is enrolled as a full-time elementary or secondary school student or has completed secondary school. Greta Anderson, a former foster youth from Wisconsin, testified at the September 15 hearing that she attended nine different schools during her high school career, six of them in different treatment facilities, reminding us all of the importance of these provisions for youths in foster care.

In Pennsylvania, education and child welfare advocacy organizations are working together on implementation of the new provisions, and in Connecticut, advocates and agency staff from both systems have come together to plan for implementation of these important improvements. Other states, including Iowa and Utah, have enacted implementing legislation. CDF and other advocates are working to explore ways that complementary federal obligations might be imposed on state and local education agencies so there would be increased receptivity to these improvements in the states. Just as children who are homeless have been afforded basic educational rights under the *McKinney-Vento Homeless Assistance Act*, attention also must be given in education law to the educational rights of children in foster care.

**Health Oversight and Coordination.** The State Health Oversight and Coordination Plan required under the Act is intended to get child welfare and Medicaid agencies working together with pediatricians and other experts to look more carefully at the health and mental health challenges facing children in foster care. It must address how initial and follow-up health screenings will be provided, health needs identified will be monitored and treated, and medical information will be updated and appropriately shared with providers. The plan also must detail the steps that are or will be taken to ensure continuity of health care services, including the possibility of establishing a medical home for every child in care, and what will be done to ensure the oversight of prescription medications, including psychotropic drugs. This requirement has pushed action forward in states that had already begun such coordination work and has been used in other states to bring child welfare and health to the table together. For example, Florida child welfare, juvenile justice and health agencies have entered an interagency agreement to develop a coordination plan. The challenge in all the states will be to make this more than a plan that sits on the shelf but, instead, a game plan for changing practices, procedures and policies in states so that the health and mental health care needs of children in foster care will be addressed. Too often now children enter foster care after experiencing abuse and other trauma and, rather than getting help, face new problems that make them worse off instead of better off. Unfortunately, HHS has, to date, provided states little guidance as to either the process for developing or the contents of these plans. In late August, the President of the American Academy of Pediatrics made specific recommendations to the Acting Assistant Secretary for Children and Families for guidance in evaluating states' Health Oversight and Coordination Plans. It would be helpful for the Subcommittee to recommend to the Children's Bureau that it issue a letter jointly with the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services about the importance of meaningful collaboration among child welfare and Medicaid agencies in strengthening and implementing these plans.

#### ***Promoting New Permanency Options and Post-Permanency Services for Children***

The *Fostering Connections to Success and Increasing Adoptions Act* pushed forward a renewed focus on the importance of permanence for children in foster care and attention to what can be done to place children safely in permanent homes with relatives and with adoptive parents. Many of these are reforms that have been encouraged for years and are now finally getting important attention in the states.

#### **New Attention to Permanence for Children in Care with Relatives**

The promoters of the Act took note of research that has found children often do better in placements with relatives when in care away from their parents and are often as safe, if not safer, than children placed in non-relative foster homes. Children and youths placed with relatives experience fewer placements than those in non-relative homes, giving them greater stability both at home and in school. They also are more likely to be placed with their siblings and more likely to say that they feel they are part of the family they are living with. Recent research also has found that children placed with relatives are less likely to exhibit behavior problems. New requirements and options for states in the Act can help support children being raised by grandparents and other relatives.

**Identification of and Notice to Relatives.** The *Fostering Connections to Success and Increasing Adoptions Act* requires that states identify and give notice to

all adult relatives within 30 days of a child being removed from his family and placed in foster care. CDF staff often hear that relatives didn't know a grandchild or niece or nephew had been removed from his or her home and placed in foster care. Providing notice to relatives immediately will allow them early on to decide whether and to what extent they can be involved in caring for the child. They will be more aware of the options they have. If they cannot provide a home for the child, their involvement still can help to maintain an important family connection and ease the child's sense of loss. These connections also can be helpful if it later turns out that reunification is not a possible permanency option for the child. Although a number of states already had notice requirements, many states have taken a second look to check the frequency and nature of the notice and who receives it. New York and Pennsylvania are two of the states that early on reissued guidance on their notice requirements with modifications. The National Conference of State Legislatures reports that at least eight states have enacted new relative notice requirements through legislation since the Act was passed (AR, CO, GA, IA, MN, MO, ND, OK). Other states are waiting until the Children's Bureau provides further details on the nature of the notice and documentation required. We have heard questions from states such as: What steps must be taken to identify relatives to fulfill due diligence? Must the notice be in writing? What specific information must the state give the relative?

**Intensive Family Finding.** Intensive Family Finding, another activity allowed under the Family Connection Grants mentioned above, can help identify relatives who may be a resource for children. It can be used early on as a strategy for exercising due diligence in identifying and notifying relatives, or it can be used to help children already in care connect permanently with family members. Intensive Family Finding uses search technology to find family members and, when they are identified, works to establish and build on relationships to promote permanency for the child. Encouraged by results in states that have used Intensive Family Finding and documented its impact on improved outcomes for children, Texas and Colorado have applied for a Family Connection Grant to use this strategy.

**Kinship Guardianship Assistance.** The *Fostering Connections to Success and Increasing Adoptions Act* also provides federal support for the first time to states that opt to offer subsidized guardianship payments on behalf of children in federally-supported foster homes with relatives. These payments help enable children to leave foster care yet remain permanently with their relatives who become their legal guardians. In including the Kinship Guardianship Assistance Program in the *Fostering Connections to Success and Increasing Adoptions Act*, Congress recognized that 37 states and the District of Columbia already were offering such assistance and wanted to help these programs reach more children and encourage additional states to offer similar assistance. There is a lot of interest in the program, especially among states already supporting such assistance to children with only state dollars. To date, at least six of these states (CT, ME, MO, OR, PA, TN) and the District of Columbia have notified HHS of their plans to use the new federal dollars for Kinship Guardianship Assistance, and Director Erwin McEwen of the Illinois Department of Children and Family Services testified on September 15 that Illinois will do so when its Subsidized Guardianship waiver ends in October. Eight of the 13 states not previously offering such assistance already have passed new kinship guardianship assistance legislation (AR, CO, MI, TX, WA) or are working toward such legislation (NY, VT, VA). Although the enormous fiscal pressures on states make it challenging for them to make any new investments, increasing numbers of states have realized that if they don't take advantage of the new funding opportunity, they will continue to pay for the care of many of these children in foster care anyway. Before a child can receive Kinship Guardianship Assistance, both reunification and adoption must be determined to be not appropriate permanency options for the child, suggesting he or she will remain in foster care. There also is evidence from research in Illinois and Tennessee, two of the states that have used federal child welfare demonstration waivers to implement statewide subsidized guardianship programs, that these programs are cost-effective and can actually save states money. The Act took another step as well to support kinship families by offering independent living services and education and training vouchers to youths who leave foster care at age 16 or older and move in permanently with relatives or are adopted. Greta Anderson, the young woman who testified before the Subcommittee, was placed with a relative guardian at 16 and is a living example of how this provision in the Act already has helped a youth who had been in a kinship guardianship placement get additional assistance for college. As she said, "The college experience is one every foster youth deserves."

**Sibling Connections.** The Act also gives special attention to the importance of sibling connections for children in foster care. Research has documented that the

sibling bond is one of the most important and long-lasting bonds created in our lives, and it is especially important for children in foster care who often do not have connections to other family members. The Act requires agencies to make reasonable efforts to place siblings together in all placements unless it is contrary to the children's safety or well-being. This will help to provide a sense of stability for the children who are removed from the rest of their family. If siblings cannot be placed together, the state must make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would also be contrary to a sibling's safety or well-being. Although prior to the enactment of the new law, a survey by the National Resource Center for Family-Centered Practice and Permanency Planning found that more than half the states had policies in place requiring agencies to make efforts to ensure siblings are placed together and even more states promoted sibling visitation, there was also evidence from some of the larger states that more than half of the children with siblings in care were not placed together. The Act's sibling provisions have required agencies to update some of their policies and take steps to document that they are making reasonable efforts to ensure their rules are being implemented and that staff, caregivers and youths themselves actually know about them.

#### **Promoting the Adoption of Children with Special Needs**

The *Fostering Connections to Success and Increasing Adoptions Act* takes specific steps to make adoption a permanency option for more children with special needs in foster care. Beginning this fall, on October 1, 2009, states will be eligible for federal reimbursement for more children with special needs who are adopted. The Children's Bureau just issued new guidance for the Adoption Assistance changes on August 26, 2009 (ACYF-CB-PI-09-10). Over a nine-year period, children waiting for adoptive families will be eligible for federal support without regard to whether their birth family was eligible for Aid to Families with Dependent Children. This is a change that had been sought for decades. It makes no sense to tie a child's eligibility for adoption assistance payments with a new family to the income of his or her birth family whose parental rights have been terminated. This fall states must extend the new adoption assistance payments to all eligible youths 16 and over with special needs who are waiting for adoption and to children with special needs who have been in care for 60 or more continuous months, as well as the siblings of both groups of children and youths if they are adopted by the same family. Again, this is another provision that will benefit individual children but has also already encouraged state agencies to take a careful look at the large number of children sitting in foster care waiting to be adopted. The North American Council on Adoptable Children has been doing commendable work with states to help them prepare for this new assistance and commit to redirecting state dollars currently used for adoption assistance payments to post-permanency and other services. The redirection of these services can help ensure that children get referred appropriately for adoption and, once placed with adoptive families, get the supports and services they need to remain there.

#### **Expanding the Adoption Incentive Program**

The Act reauthorized the Adoption Incentive Program and expanded the incentives available to states that increase the number of older children and other children with special needs being adopted. The additional incentive payments should help states reduce the number of children waiting for permanent families. On September 14, 2009, HHS announced incentive awards totaling \$35 million for 38 states and Puerto Rico, including eight of the states represented on the Subcommittee (AL, CA, FL, GA, IL, MD, MI and NV). These were the first awards made under the new rules in the Act. The awards are to be used for child welfare services and activities, including post-adoption services, authorized under Titles IV-B and IV-E of the Social Security Act.

#### **Support for Youths Aging Out of Care**

The *Fostering Connections to Success and Increasing Adoptions Act* also promises new federal support to states to help older youths who are not adopted or returned home remain in care to age 19, 20 or 21 to finish their education, find work, and explore new permanent family connections. While federal support for youths in care beyond their 18th birthday will not go into effect for another year, states, as you heard from both Illinois and Maryland at the hearing, are working hard to determine how youths can benefit from this increased support. States like these that already are using state dollars to provide support may be able to free up some state dollars to reach more children. For those states that now end support for youths at age 18, there is strong evidence to show that continued time in care to help with education and work opportunities can improve outcomes for youths. Research by the

Chapin Hall Center for Children at the University of Chicago has documented increased benefits to young people who stay in care longer. They are more likely to graduate from high school, pursue higher education, graduate from college, have higher incomes and delay pregnancy. Recognizing these benefits, at least three states have already enacted legislation that would allow them to provide such support to youths (IL, TX and WA). Others have legislation pending (AL, CA, DE and MA). In order to assist older youths, states also are paying attention to the Act's new requirement for transition plans for youths before they leave care and exploring how to ensure that youths play a major role in planning for the housing, health coverage, education, workforce support, employment services and other help they will need.

#### ***Improving the Child Welfare Workforce***

The *Fostering Connections to Success and Increasing Adoptions Act* also took a first step to improve the child welfare workforce by extending federal Title IV–E training funds to reach more agency and court staff working with children in the system. Federal support for training is also extended to attorneys representing parents and children, guardians ad litem and other court appointed special advocates. While much more needs to be done, states and advocates are beginning to pay more attention to how Title IV–E training funds are being used and can be expanded for the benefit of children. The fact that the new funds are phased in over five years has been a disincentive so far for states to use the new funding. At the same time, however, states are eager to get Congress's attention about other changes needed to improve the child welfare workforce.

#### **Taking the Next Step and Finishing the Job**

The *Fostering Connections to Success and Increasing Adoptions Act* has provided new attention to problems facing children and families and child welfare systems across the country, focused new energy on reforms to improve outcomes for children, and promoted important new collaborations that recognize children will only truly benefit if agencies serving children work together and with the broader community on their behalf. CDF looks forward to continuing to work with Members of the Subcommittee and others to ensure that children truly benefit from the new services and supports offered in the *Fostering Connections to Success and Increasing Adoptions Act*. At the same time, we are eager to build on the momentum that has been gained and “finish the job” as Chairman McDermott said on the House floor last year. As we work to improve outcomes for children in foster care, we must ratchet up efforts to improve outcomes for all children by implementing improvements in federal child welfare financing that will help:

- Offer children and families the supports they need to prevent child abuse and neglect, prevent crises from intensifying, and prevent children from entering foster care unnecessarily;
- Improve the child protection response in states, as it is often the child protection agency that controls the front door to the child welfare system;
- Promote improvements to establish permanency, permanency incentives and post-permanency services for children in foster care, including Kinship Guardianship Assistance for all children in foster care with relatives, and special help to relatives who are preventing children from entering foster care;
- Establish permanency for the tens of thousands of children, often older children, who remain in expensive group care settings and seem not to be helped by most efforts underway in states to safely reduce foster care caseloads;
- Make continuing improvements in the child welfare workforce to help states address gaps in supports for the workforce and extend training for all staff assisting children in the child welfare system—not just those directly responsible for IV–E eligible children—to promote safety, permanence and well-being for children; and
- Promote increased accountability in states for improved outcomes for children by encouraging more frequent tracking and reporting on child-specific outcomes and on the movement of children in and out of care and agencies' performance over time, assisting in the development of evidence-based practices and programs and developing incentives for continuous improvement on behalf of children and families.

There is growing consensus in the field about the need for improvements in these areas. The remaining challenges relate to the best ways to make progress in all of them.

Thank you for the hope you have given to hundreds of thousands of children and youths across the country. The Children's Defense Fund looks forward to continuing

to work with the Subcommittee to ensure that this hope is realized for these children and to take the next steps so we can get the job done for children.

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### **Statement of Donna M. Butts, Generations United**

Generations United is the only national membership organization focused solely on promoting intergenerational strategies, public policies, and programs. Founded in 1986 by the National Council on the Aging, Child Welfare League of America, AARP, and Children's Defense Fund, GU has grown tremendously over the last twenty years and now represents over 100 national, state, and local organizational members that represent more than 70 million Americans. GU serves as a resource for educating policymakers and the public about the economic, social, and personal imperatives of intergenerational cooperation. One of GU's core initiatives is its National Center on Grandfamilies, which provides resources, materials, and information to groups serving children being raised by grandparents and other relatives.

This testimony will focus on the implications of implementation of the Fostering Connections and Increasing Adoption Act of 2008 (The Fostering Connections Act) on "grandfamilies," families in which grandparents or other relatives are primarily responsible for caring for children who live with them. These families are also referred to as kinship families and exist both in and outside the formal foster care system. Congress recognized the importance of relative caregivers in helping to raise our country's children throughout the Fostering Connections to Success and Increasing Adoptions Act of 2008.

#### ***The Numbers***

Children who enter the foster care system fare better when placed with relatives. They experience fewer placements and less disruption while staying connected to their familial roots and culture. They are also more likely to report that they feel loved. Currently about 530,000 children in the U.S. are in foster care. Of these, more than 125,000 live with relatives. All told almost six million children across the country are living in households headed by grandparents or other relatives, according to the 2000 U.S. Census. About 4.4 million of these children are in grandparent-headed households, and another 1.5 million live in households headed by other relatives, such as aunts, uncles, or siblings. Almost 2.5 million of these children have no parent present in the home.

#### ***Making Subsidized Guardianship Available for All Children Who Need It***

For the first time, Congress guaranteed federal support for all states (at their option) to provide permanent relative guardians a subsidy. The Kinship Guardianship Assistance Program is an innovative approach to expand permanency to children languishing in foster care with relatives for whom adoption is not appropriate and return-to-home is not an option. The Guardianship Assistance Program provides the sense of "forever" that is so important to a child's future. While providing the option for states to receive federal support for subsidized guardianship for children who are eligible for Title IV-E was a major step forward for children, however thousands of children who have been abused or neglected still do not qualify for federal support because they are not IV-E eligible.

Eliminating the Title IV-E eligibility link to the July 1996 Aid to Families with Dependent Children income requirement would help make subsidized guardianship available to all children who need it. By making subsidized guardianships a reimbursable expense for IV-E eligible children, the Fostering Connections Act took a monumental step toward helping states move more children to permanent homes with relatives. However, because federal reimbursement is limited to children who are IV-E eligible, thousands of children for whom subsidized guardianship is the best option will continue to have it unavailable to them. A 2008 report from the Child Welfare League of America on the decline of federal support for children in foster care demonstrated a 23% decline from 1998 to 2006 in the number foster children who are eligible for Title IV-E. As a result of these eligibility rules, tens of thousands of children who have experienced abuse and neglect do not qualify for federal assistance and thousands of children are left without the full array of permanency options that may be best for them.

Generations United urges Congress to address an additional eligibility limitation presented in a U.S. Department of Health and Human Services Program Instruction (CB-PI-08-007) issued on December 24, 2008 which incorrectly interpreted the new Fostering Connections law and federal kinship guardianship assistance program reimbursement as applying only to those children entering a new kinship guardianship arrangements after exiting from a IV-E foster care placement. The in-

terpretation penalizes states such as California that took the initiative to create their own programs. Generations United urges the Subcommittee to work with the Administration on Children and Families to urge them to rescind this provision in the December 24, 2008 Program Instruction. Families they serve should be denied federal support based solely on the timing of the guardianship placement.

#### ***Providing Guidance to States***

States are taking steps to implement the required provisions of the law, however many questions remain. Many states are seeking federal guidance on certain provisions in order to most effectively serve the needs of families. We urge Congress to encourage the Administration to provide guidance to the states on a number of provisions that affect children being raised by grandparents or other relatives. For example several states have raised questions related to waiving non-safety licensing requirements for relative families and would benefit from guidance directing them to establish a written policy for the process by which a non-safety licensing waiver can be requested. While the law makes clear that such waivers may be granted on a case-by-case basis, without a clear process for initiating a request for a waiver, an overworked child welfare worker may opt not to pursue a waiver despite indications that the particular home may be the best placement for a child.

As states implement the requirement to notify adult relatives of a child within 30 days of removal from the custody of his/her parents, guidance could direct states to develop clear policies which would define what type of notice should be given, detail which state agency or department in the agency is responsible for providing notice, and consider what type of documentation should go into the case file.

#### ***Investing in Prevention Supports for Children and Families at Risk***

By the time a child enters the formal foster care system, they have often already been the victim of abuse or neglect. Preventing child abuse and neglect is always preferable to emergency intervention and placement in foster care. However, the child welfare system focuses very few resources on preventing child abuse and neglect. High-quality home visiting has proven to be a cost-effective preventive program model. Research has shown that home visiting can produce greater school readiness, enhanced child health and development, improved parenting practices, and reduction in child maltreatment and later criminality. If Congress were to make a greater investment in preventative services, our country's children will be more prepared to become productive and healthy adults.

Children being raised by grandparents or other relatives are one of the primary groups that can benefit substantially from preventative resources. Grandparents and other relatives raising children save taxpayers more than \$6.5 billion each year by stepping forward to take care of children and keep them out of the formal foster care system.<sup>1</sup> Many take custody of children with little warning or planning. They often find that raising children a second time presents new challenges.

The caregivers may be living on a fixed income and were not planning financially to raise another child. The relative children they are caring for who have been removed from the parents' home are more likely to have behavioral and mental health issues than other children and often need therapeutic treatment. Yet, because these caregivers stepped forward to prevent the children from becoming involved with the child welfare system, they often do not qualify for supportive services that could help the children and family thrive. Helpful preventative and supportive services may include: support groups, therapeutic treatment, mental health services, housing supports, mobile health services, home visiting, and respite care. According to a recent report from Prevent Child Abuse America, preventative services to address some of the challenges these families face are critical: "to minimize the long-term effects of abuse, age-appropriate treatment services should be available to all maltreated children." Congress should support greater investment in preventative services including those that would support children being raised by grandparents and other relatives.

#### ***Post Permanency Services***

The Fostering Connections Act includes a number of provisions that build on the goals of the Adoption and Safe Families Act to help children leave foster care for

<sup>1</sup>This figure was calculated based on the federal share of the 2000 average monthly foster care maintenance payment, which was estimated at \$545 in the Green Book, Committee on Ways and Means, U.S. House of Representatives. Half the children are used for our calculation, due to a conservative estimate that the other half already received some type of governmental financial assistance, such as a Temporary Assistance for Needy Families (TANF) child-only grant. Consequently, the cost of one million children entering the system would represent all new financial outlays for taxpayers.

permanent homes. The meaning of permanency suggests that our responsibility does not end with providing a permanent plan for children. While the importance of post permanency services has been emphasized in the area of adoption, additional supports are needed especially for those families in other permanency arrangements. In particular the Fostering Connections Act expands access to the subsidized guardianship permanency option. Therefore, the availability of post permanency services should be expanded to address the needs of all families who take on permanent care for children leaving foster care including relatives who assume permanent responsibility for their relative children.

While adoption and subsidized guardianship disruption rates are low, any disruption has devastating consequences for a child, particularly one who has already experienced multiple placements. Post permanency services promise greater stability for families guaranteeing improved outcomes for children. In addition to providing subsidies and health insurance through Medicaid which is now available to IV-E eligible children in states that elect to provide subsidized guardianship, examples of post-permanency services could include: support and treatment services for families caring for children with special needs, educational and information services, clinical and treatment services, supportive networks and other forms of informal and formal support for children and families. Furthermore, some families who secure subsidized guardianship of the children in their care may, at a later date, decide to seek adoption for the children and find that the child welfare agency no longer offers support through the adoption process. In addition to providing Adoption Assistance funds to qualifying families, post-permanency services could include services to help guide and assist relatives through the adoption process.

**Conclusion:**

We appreciate the work of this committee to review the implementation of the Fostering Connections and Increasing Adoptions Act of 2008 and your continued interest in providing permanent homes for all children.

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**Statement of Frank J. Mecca,  
County Welfare Directors Association of California**

The County Welfare Directors Association of California (CWDA) appreciates the opportunity to submit testimony for the record on the Implementation of the Fostering Connections and Increasing Adoptions Act (P.L. 110-351). CWDA and its members actively supported the adoption of the legislation. The new law contains important provisions to assist states and counties in serving at-risk children and youth. We welcome the Subcommittee's continued interest in the subject through holding this oversight hearing and will work with you to continue to make other necessary child welfare financing reforms.

Each of California's 58 counties operates a child welfare program, under state oversight and in accordance with federal and state rules and regulations. Not only do those programs depend upon revenues generated by each county, but a large share of child welfare financing depends upon state and federal funding streams.

Our statement addresses concerns in two key areas: the ability of states and counties to use their funds as match for the new federal resources under the kinship guardianship assistance payments program and implementation issues concerning youth between the ages of 18 and 21.

**Financial Support for Kinship Guardianship**

Our state's child welfare system is the largest in the nation, with nearly 72,000 children in out of home foster care. In addition to that group are approximately 15,000 children in our state- and county-funded Kinship Guardianship Assistance Payment (Kin-GAP) program. California's counties have partnered with the state to operate the program since 2000. This program enables children who would otherwise be in foster care to be cared for by relatives. Kin-GAP has furthered the shared federal and state goal of securing stable and permanent placements with relatives who have assumed legal guardianship of an at-risk child. In addition to providing permanent homes to children in foster care, the Kin-GAP program has avoided millions of dollars in federal foster care costs.

Unfortunately, a U.S. Department of Health and Human Services Program Instruction (CB-PI-08-007) issued on December 24, 2008 interpreted the new Fostering Connections law and accompanying federal kinship reimbursement as applying only to those children entering a *new* kinship arrangement after exiting from a IV-E foster care placement. The Instruction penalizes states such as California that took the initiative to create their own programs. The current interpretation

that federal kinship guardian payments apply only prospectively places the state and its counties in the untenable position of having to disrupt stable guardianship families by converting them to federally funded cases by creating a 'new' kinship arrangement through the court system—a system these families thought they had left behind in entering Kin-GAP. Not only would such a process needlessly direct resources away from serving families and cause potential distress for guardians and the children in their care, retaining the current Program Instruction violates a key tenet of new law—that states be given incentives to establish subsidized guardianships for relatives so that they have the financial means to provide stable, loving homes for their relative children who would otherwise be placed in foster care.

CWDA urges the Subcommittee to work with the Administration on Children and Families to convince them to rescind this provision in the December 24, 2008 Program Instruction. Governmental agencies and the families they serve should not be penalized based solely on the timing of the guardianship placement.

The state legislature is considering a bill, AB 12, which would implement a number of the Fostering Connections Act provisions. CWDA has been very active in that legislative process. We support greater flexibility in the use of federal IV–E funding so that more of it could be used to maintain or reunify families when children are abused or at risk of abuse and neglect. Our staff and human services directors await further guidance from ACF and urge the Administration to provide ample flexibility in that guidance so that we may address appropriately the unique circumstances of the families we serve.

#### ***Support for Young Adults Reaching the Age of 18***

CWDA supports the law's provision to extend IV–E payments to youth up to the age to 21. California's pending AB 12 contains such a provision. Given California's unprecedented budget problems, however, it will not likely be able in the near future to provide the necessary financial match to take advantage of the extension.

For youth who have attained the age of 18, CWDA believes that there needs to be federal recognition that by extending the definition of 'foster child' to include a foster young adult up to age 21, additional flexibility is needed in defining the purpose of the IV–E case plan for a legal adult. Legal permanency that applies to a child no longer applies to a person over age 18. The goals of the case plan may have to be modified to focus on the youth's transitional plan, such as education and employment goals.

Further, the new Act allows federal reimbursement for 'a supervised setting in which the individual lives independently.' CWDA would support guidance on how to define supervised independent living in a manner that allows a range of housing options for youth to ensure their progress toward stable and productive lives. Since they are legally adults, however, federal guidance and/or regulations on living situations and court oversight must account for and respect that fact. Consequently, a separate licensing standard for those over age 18 is necessary, including, but not limited to: shared homes, individual scatter-site apartments, collegiate housing and boarding homes.

CWDA believes that California's Transitional Housing Placement Program (THP–Plus) for youth over 18 years of age is a model that fits within the intent of the Fostering Connections Act. THP encourages private nonprofits to provide case management to youth who live in supervised independent living settings, either in apartments or with host families (often former foster parents or relative caregivers). Youth have an individualized case plan that requires participation in either employment or education while gradually assuming more responsibility for payment of living expenses. California and its county human services agencies are working to develop IV–E licensing standards that meet core health and safety concerns, while recognizing the youths' status as legal adults. The program does not currently draw down IV–E funds, but CWDA believes it can be readily adapted to the 'supervised independent living settings' envisioned in the Act.

Finally, establishing permanency (return to parent's home, adoption or guardianship) for a legal adult over age 18 is different than compared to a minor. As such, the federal requirement that government agencies seek to terminate parental rights no longer applies to foster youth who are legal adults. Under California law, an adult can consent to be adopted, but it is not at all clear that such consent should fall under the jurisdiction of the state dependency court. In addition, legal guardianship over a minor terminates when the minor attains age 18, and parents no longer have custodial rights over children over age 18. Federal IV–E requirements for permanency need to be modified for these legal adults still in care.

As Subcommittee Members have acknowledged, much more needs to be done to reform the child welfare system. CWDA supports efforts to provide greater flexibility

in the use of federal funds to provide up-front investments in the lives of families and children at risk. And, as you prepare for the upcoming reauthorization of the Temporary Assistance to Needy Families (TANF) program in 2010, we will work with the Subcommittee to identify ways in which child welfare and TANF may be better coordinated and leveraged when serving families who are clients of our agencies' programs.

Thank you for the opportunity to submit this statement for the record. If you have any questions, please contact Tom Joseph, Director of CWDA's Washington Office at [tj@wafed.com](mailto:tj@wafed.com).

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### Statement of Jane Burstain, Ph.D.

To be effective, any legislation must have consistent policies and incentives. Before the Fostering Connections to Success and Increasing Adoptions Act, for children who could not return home, federal law consistently preferred adoption. The Federal Government subsidized financial support the state provided to adoptive parents and also provided payments directly to the state for increasing adoptions over a baseline level. The Federal Government did not provide any support or incentive for other permanency options such as legal guardianship.

With Fostering Connections, however, federal policies and incentives regarding permanency are no longer consistent. On the one hand, the new law still encourages adoption over legal guardianship. Federal law requires states to in essence rule out adoption before considering legal guardianship, and incentive payments to states remain solely based on increases in adoptions. On the other hand, as a practical matter, the new law puts both adoption and legal guardianship on an equal footing. It now subsidizes financial support for relatives who either adopt or who take legal guardianship. This policy conflict has practical consequences for states and more importantly for children.

The Federal Government rewards states only when a relative chooses adoption. But states opting into the federal kinship guardianship assistance program effectively lose the ability to affect that choice. States must inform relatives of the kinship guardianship assistance program in the initial notice after the child has been removed.<sup>i</sup> All relatives are told upfront that there is a choice between adoption and guardianship. But states have no "carrot" to encourage relatives to pick adoption over guardianship because relatives will get paid no matter what choice they make.<sup>ii</sup> States have no "stick" either. While Fostering Connections does require that the state find adoption not appropriate before a relative becomes eligible for a kinship guardianship payment,<sup>iii</sup> if a relative decides against adoption in favor of legal guardianship, the state's only recourse is to remove the child from the relative's otherwise appropriate home—hardly something child welfare professionals would do or that would be in the child's best interest. As a result, as a practical matter, whether relatives adopt or become guardians is solely a matter of relative preference.

Research shows that providing relatives with legal guardianship as a financially viable alternative can increase overall exits to permanency.<sup>iv</sup> Relatives who are opposed to adoption now can become a child's legal guardian, taking the child out of foster care. But research also shows that with subsidized legal guardianship, adoptions will decline. At least some and perhaps many relatives who would have exited to adoption because it was the only financially viable alternative will now choose to exit through legal guardianship instead.<sup>v</sup>

<sup>i</sup> 42 U.S.C. § 671(a).

<sup>ii</sup> Although the law allows states to set a lower rate for legal guardians, in practice, it does not work. Maryland and North Carolina each had a guardianship assistance demonstration project that set a lower rate for legal guardians. Experience in both states was that doing so made it difficult, if not impossible, to attract anyone into the program because of the attendant financial loss. *Synthesis of Findings from State Assisted Guardianship Title IV-E Demonstration Projects (September 2005)*. Administration of Children and Families. (Available at: [http://www.acf.hhs.gov/programs/cb/programs\\_fund/cwwaiver/agissue/evaluation.htm#process](http://www.acf.hhs.gov/programs/cb/programs_fund/cwwaiver/agissue/evaluation.htm#process) Accessed on September 28, 2009).

<sup>iii</sup> 42 U.S.C. § 673(d)(3)(A)(ii).

<sup>iv</sup> Testa MF. *Subsidized Guardianship: Testing the Effectiveness of an Idea Whose Time Has Finally Come*. Children and Family Research Center. May 2008.

<sup>v</sup> Testa MF. *Subsidized Guardianship: Testing the Effectiveness of an Idea Whose Time Has Finally Come*. Children and Family Research Center. May 2008. In Illinois, an evaluation of the legal guardianship payment demonstration project found that two-thirds of completed guardianships might have been adoptions in the absence of the legal guardianship payment option. A similar substitution effect was found in Tennessee. There was no substitution effect

Fewer adoptions mean reduced adoption incentive payments for states.<sup>vi</sup> As a result, the sixteen states such as Texas, New York and Ohio<sup>vii</sup> who do not currently provide financial support to relative legal guardians face a conundrum. Opting into the federal kinship guardianship assistance program may increase the number children exiting foster care into a permanent home with a relative. But in doing so, states may be sacrificing federal adoption incentive funds, leaving less money over-all for states to invest in improving their child welfare system.

In practice, Fostering Connections seems to evidence an intent to promote a policy of permanency for relatives, regardless of its legal form. If so, the Federal Government should change its incentive payment structure to reflect this policy choice and reward states for an increase in permanency not just adoption.

Respectfully submitted,

Jane Burstain, Ph.D.  
Senior Policy Analyst

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#### Statement of Jodie Lee Klaassen

Changing the foster care system to increase adoptions is wrong. The chaos and abuses in the current foster care system are well documented in the state of Michigan. Having been involved in a terrible divorce in the 44th Circuit court in Howell, Michigan, I have often said that my minor sons' could be the poster children for what a court system and the ignorance of attorneys can do to children. Those types of statements do not win me must empathy in a system hell bent on making this woman pay for any illegal activity that a family or system has created. Often I have heard from the father of my sons' that if I don't take medications, comply with some outrageous court order, pay him child support, and work full time that our sons will just go into foster care. That court has allowed case workers in the Friend of the court to investigate me and the family history, allowed people related only through marriage to provide information to the courts, favored attorneys who clean up the paperwork or provide testimony about me and my sons to create further legal issues, and report alleged "delusional" behavior from me or my sons which leads to further monitoring and money paid to them for their inconveniences.

Before the divorce was initiated, by the father of my children in 2001, I was the primary caregiver of our sons, often being informed by this man that they were my kids and I had to take care of them. I participated in their day care and school activities, was an employee at my son's parochial school, balanced a work schedule as an emergency room nurse, and provided for our sons activities of daily living without incident.

Then we moved to Howell and a divorce. In Howell there was more immediate family and extended family present and my home was frequented by neighbors' children and nephews with care giving/parenting responsibilities extended to me by these people. When it was discovered that the sister-in-law was using Tabasco sauce on her sons' tongues, one of which has special needs, it was discussed at length, although court documents and the guardian ad litem heavily relied on this woman for her input on diagnosing my parenting abilities and responsibilities. This woman's relation with my spouse is documented in court records along with other issues which she participated in to hinder my time with my sons.

It has been 2 years since I have spent any amount of time with my sons. Lawsuits have been initiated by me, in pro per, against the state of Michigan and the people who continue to provide the false and misleading information about me and my sons without relief. If I was the only "Klaassen" that the 44th Circuit court and the state of Michigan had inflicted such outrageous demands on due to an alleged "mental illness" or "substance abuse" problem due to a divorce, brought forth by an attorney

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found in a similar program adopted in Milwaukee, Wisconsin. But researchers attributed the lack of an effect to Milwaukee's decision not to offer the guardianship program to families who were already on the track to adoption, a strategy that is not available under Fostering Connections.

<sup>vi</sup> A relative legal guardian can later decide to adopt. But there is no incentive to do so and there is no evidence of this happening in the assisted guardianship demonstration projects in other states.

<sup>vii</sup> Allen T. DeVooght K. Geen R. *State Kinship Care Policies for Children that Come to the Attention of Child Welfare Agencies; Finding from the 2007 Casey Kinship Foster Care Policy Survey*. Child Trends. December 2008.

or abusive spouse, then I would continue to endure the pain and torment of not seeing or speaking to my sons in silence, but I am not the only one.

I would hope that Mr. McDermott would afford us parents the opportunity to defend ourselves and our children against the abuses that even our own family members have and will continue to inflict upon us and our children either to obtain money or to justify the abuses which they were never held accountable for when we were children. Breaking the cycle of abuse is difficult and when the courts are being used by our abusers to further exploit those family issues which have never been appropriately handled then our children get put into a system which could possibly cause them more harm than being raised by a biological parent with an alleged “mental illness” or “substance abuse” history.

Please examine the abuses that already exist in the system and don’t allow our children to suffer needlessly. Thank you for your consideration in matters which affect many families and children.

Jodie Lee Klaassen, PN, RN, BGS

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#### Statement of John R. Vaughn, National Council on Disability (NCD)

I am pleased to write to you on behalf of the National Council on Disability (NCD), an independent federal agency, to provide policy recommendations regarding youth with disabilities who are involved in the foster care system in order to be considered part of the record for the September 15, 2009 hearing of the Subcommittee on Income Security and Family Support regarding the implementation of the Fostering Connections to Success and Increasing Adoptions Act. Our comments are based upon NCD’s 2008 report entitled *Youth with Disabilities in the Foster Care System: Barriers to Success and Proposed Policy Solutions*. The findings in that report lend support to the goals of the Fostering Connections to Success and Increasing Adoptions Act—that additional supports will assist youth with disabilities in the foster care system in reaching a healthy adulthood.

The purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, and that empower individuals with disabilities to achieve economic self-sufficiency, independent living, and integration into all aspects of society. To accomplish this, we gather stakeholder input, review federal programs and legislation, and provide advice to the President, Congress and government agencies. Much of this advice comes in the form of timely reports and papers NCD releases throughout each year. NCD is composed of 15 members, appointed by the President with the consent of the U.S. Senate.

NCD undertook its “Youth with Disabilities in the Foster Care System” report because foster care is clearly both a child welfare issue as well as a disability issue, given the alarmingly high numbers of foster youth with mental, developmental, emotional, learning, and physical disabilities. NCD reported statistics that illustrate the disproportional numbers of youth in foster care who have disabilities. More than 50 percent of foster youth alumni had mental health issues compared to 22 percent of the general population. Across educational systems, an estimated 10 to 12 percent of the general population is eligible for special education and related services compared to a 30 to 40 percent estimate for foster care youth.

Data also indicate that far too many children and youth with disabilities in foster care are not transitioning into healthy adulthood as productive members of society. These findings reflect the insufficiencies of the temporal systems, programs, and in some cases unprepared people tasked to provide the necessary, cross-cutting, and interdependent health, education, and family services.

After supporting the Fostering Connections Act as legislation, NCD was heartened to see the bill signed into law last year, and we believe this law will provide additional assistance that will help many young people with disabilities become contributing members of society. In light of the focus of Tuesday’s hearing, we respectfully submit the following germane Congressional recommendations from our *Youth with Disabilities in the Foster Care System* report for your ongoing consideration:

- **Provide increased flexibility to states and communities so programs and services can be most effectively structured to meet the needs of youth with disabilities in foster care.** More flexibility awarded to state child welfare agencies can lead to more help where it is needed for preventative services, alternative care models, transition services, and school-based mental health programs, among many other appropriate services for youth

with disabilities in foster care. Allowing a percentage of funds from one program to be shifted to meet the purposes of another is one possible approach; allowing waivers and block granting of funds is another.

- **Increase federal support in the departments of Health and Human Services, Education, Justice, and Labor for research and demonstrations to identify effective policies and practices that lead to positive outcomes for youth with disabilities in foster care.** High-quality research and program evaluations should be supported at the federal level to demonstrate which programs and policies are truly effective for youth with disabilities in foster care.
- **Fund the Federal Youth Development Council, authorized by the Federal Youth Coordination Act (FYCA), as well as similar federal coordinating efforts.** This council is charged with developing an interagency plan to implement federal youth policy more strategically for disadvantaged youth, such as youth with disabilities in foster care. Federal support of FYCA and its council would greatly facilitate a stronger federal role in serving these youth, as well as more cross-systems collaboration efforts involving the many systems that interact with these youth.
- **Strategically increase collaboration among the education, juvenile justice, child welfare, labor, dependency court, health, and mental health systems.** Efforts should be made to increase collaboration among all of these systems so that youth with disabilities in foster care can achieve greater well-being in their adolescence and into adulthood. State dependency court systems can serve as leaders in many of these collaboration efforts, and cross-system accountability measures should be developed.

If you have any questions about this submission or any matter related to disability policy, please contact NCD Executive Director Michael Collins by email at [mcollins@ncd.gov](mailto:mcollins@ncd.gov). On behalf of NCD, thank you for your leadership in focusing attention on this important topic. I also thank you for the opportunity to submit this statement for the record.

