

PREVENTING SEX TRAFFICKING AND IMPROVING
OPPORTUNITIES FOR YOUTH IN FOSTER CARE ACT

MAY 7, 2014.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4058]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4058) to prevent and address sex trafficking of youth in foster care, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.

TITLE I—IDENTIFYING AND PROTECTING YOUTH AT RISK OF SEX TRAFFICKING

- Sec. 101. Identifying and screening youth at risk of sex trafficking.
- Sec. 102. Documenting and reporting instances of sex trafficking.
- Sec. 103. State plan requirement to locate and respond to children who run away from foster care.
- Sec. 104. Increasing information on youth in foster care to prevent sex trafficking.

TITLE II—IMPROVING OPPORTUNITIES FOR YOUTH IN FOSTER CARE AND SUPPORTING PERMANENCY

- Sec. 201. Supporting normalcy for children in foster care.
- Sec. 202. Improvements to another planned permanent living arrangement as a permanency option.

Sec. 203. Empowering foster youth age 14 and older in the development of their own case plan and transition planning for a successful adulthood.

TITLE III—IMPROVING DATA COLLECTION AND REPORTING ON CHILD SEX TRAFFICKING

Sec. 301. Including sex trafficking data in the Adoption and Foster Care Analysis and Reporting System.

Sec. 302. Information on children in foster care in annual reports using AFCARS data; consultation.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) Recent reports on sex trafficking estimate that thousands of children are at risk for domestic sex trafficking.

(2) The risk is compounded every year for the up to 30,000 young people who are “emancipated” from foster care.

(3) The current child welfare system does not effectively identify, prevent, or intervene when a child presents as trafficked or at risk for trafficking.

(4) Within the foster care system, many young adults are housed in congregate care facilities or group homes, which often are targeted by traffickers.

(5) Within the foster care system, children are routinely denied the opportunity to participate in normal, age or developmentally-appropriate activities such as joining 4-H and other clubs, participating in school plays, playing sports, going to camp, and visiting a friend.

(6) A lack of normalcy and barriers to participation in age or developmentally-appropriate activities contribute to increased vulnerability to trafficking, homelessness, and other negative outcomes for children in foster care.

(7) The latest research in adolescent brain development indicates that young people learn through experience and through trial and error, and that as part of healthy brain development young people need to take on increasing levels of decisionmaking through their teenage years.

(8) In order to combat domestic sex trafficking and to improve outcomes for children in foster care, systemic changes need to be made to the child welfare system that focus on—

(A) the reduction of children in long-term foster care;

(B) greater child engagement in case planning while in foster care;

(C) improved efforts to locate and respond to children who have run away from foster care and to reduce the number of foster children who are on the run;

(D) improved policies and procedures that encourage age or developmentally-appropriate activities for children in foster care and that permit more opportunities for such children to make meaningful and permanent connections with caring adults; and

(E) with regard to domestic sex trafficking, improved identification, prevention, and intervention by the child welfare agency in collaboration with the courts, State and local law enforcement agencies, schools, juvenile justice agencies, and other social service providers.

TITLE I—IDENTIFYING AND PROTECTING YOUTH AT RISK OF SEX TRAFFICKING

SEC. 101. IDENTIFYING AND SCREENING YOUTH AT RISK OF SEX TRAFFICKING.

Section 471(a)(9) of the Social Security Act (42 U.S.C. 671(a)(9)) is amended—

(1) in subparagraph (A), by striking “and”;

(2) in subparagraph (B), by inserting “and” after the semicolon; and

(3) by adding at the end the following:

“(C) not later than—

“(i) 1 year after the date of the enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with organizations with experience in dealing with at-risk youth, policies and procedures for identifying and screening (including relevant training for caseworkers), and for determining appropriate State action and services with respect to—

“(I) any child over whom the State agency has responsibility for placement, care, or supervision (including children for whom a State child welfare agency has an open case file but who have not been removed from the home and youth who are not in foster care but are receiving services under section 477 of this Act) who the State has reasonable cause to believe—

“(aa) is a victim of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(10))) or a severe form of trafficking in persons de-

scribed in section 103(9)(A) of such Act (22 U.S.C. 7102(9)(A));
 or
 “(bb) is at risk of being a victim of either kind of trafficking;
 and
 “(II) at the option of the State, any individual, without regard to
 whether the individual is or was in foster care under the responsi-
 bility of the State, who has not attained 26 years of age; and
 “(ii) 2 years after such date of enactment, demonstrate to the Sec-
 retary that the State agency is implementing, in consultation with the
 child protective services agency or unit for the State, the policies and
 procedures referred to in clause (i).”.

SEC. 102. DOCUMENTING AND REPORTING INSTANCES OF SEX TRAFFICKING.

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

- (1) by striking “and” at the end of paragraph (32);
- (2) by striking the period at the end of paragraph (33) and inserting a semi-colon; and
- (3) by adding at the end the following:
 “(34) provides that, for each child over whom the State agency has responsi-
 bility for placement, care, or supervision (including any child for whom a State
 child welfare agency has an open case file but who has not been removed from
 the home, and any youth who is not in foster care but is receiving services
 under section 477), the State agency shall—

“(A) not later than 2 years after the date of the enactment of this para-
 graph, identify and document appropriately in agency records each child
 who is identified as being a victim of sex trafficking (as defined in section
 103(10) of the Trafficking Victims Protection Act of 2000) or as being a vic-
 tim of severe forms of trafficking in persons described in section 103(9)(A)
 of such Act, as such a victim; and

“(B) report immediately, and in no case later than 24 hours after receiv-
 ing—

“(i) information on children who have been identified as being victims
 of sex trafficking (as defined in subparagraph (A) of this paragraph) to
 the law enforcement authorities; and

“(ii) information on missing or abducted children to the law enforce-
 ment authorities for entry into the National Crime Information Center
 (NCIC) database of the Federal Bureau of Investigation, established
 pursuant to section 534 of title 28, United States Code, and to the Na-
 tional Center for Missing and Exploited Children; and

“(35) not later than 2 years after the date of the enactment of this paragraph,
 contains a regularly updated description, made available to the public on the
 Internet website of the State agency, of the specific measures taken by the State
 agency to protect and provide services to children who are victims of sex traf-
 ficking (as defined in section 103(10) of the Trafficking Victims Protection Act
 of 2000), or victims of severe forms of trafficking in persons described in section
 103(9)(A) of such Act, including efforts to coordinate with State and local law
 enforcement, schools, juvenile justice agencies, and social service agencies such
 as runaway and homeless youth shelters and transitional and other supportive
 housing providers to serve that population.”.

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate
 regulations implementing the amendments made by subsection (a) of this section
 and shall provide uniform definitions for States to use for the reports required
 under section 471(a)(34)(B) of the Social Security Act, as added by such subsection
 (a).

SEC. 103. STATE PLAN REQUIREMENT TO LOCATE AND RESPOND TO CHILDREN WHO RUN AWAY FROM FOSTER CARE.

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

- (1) by striking “and” at the end of paragraph (34);
- (2) by striking the period at the end of paragraph (35) and inserting “; and”;
 and
- (3) by adding at the end the following:
 “(36) provides that, not later than 1 year after the date of the enactment of
 this paragraph, the State shall develop and implement specific protocols for—
 “(A) expeditiously locating any child missing from foster care;
 “(B) determining the primary factors that contributed to the child’s run-
 ning away or otherwise being absent from care, and to the extent possible

and appropriate, responding to those factors in current and subsequent placements;

“(C) determining the child’s experiences while absent from care, including screening the child to determine if he or she is a possible victim of sex trafficking (as defined in paragraph (9)(C)); and

“(D) reporting such related information as required by the Secretary.”.

SEC. 104. INCREASING INFORMATION ON YOUTH IN FOSTER CARE TO PREVENT SEX TRAFFICKING.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a written report which summarizes the following:

(1) Information on children who run away from foster care and their risk of becoming victims of sex trafficking, using data reported by States under section 479 of the Social Security Act and information collected by States related to section 471(a)(36) of such Act, including—

(A) characteristics of children who run away from foster care;

(B) potential factors associated with children running away from foster care (such as reason for entry into care, length of stay in care, type of placement, and other factors that contributed to the child’s running away);

(C) information on children’s experiences while absent from care; and

(D) trends in the number of children reported as runaways in each fiscal year (including factors that may have contributed to changes in such trends).

(2) Information on State efforts to provide specialized services, foster family homes, or child care institutions for children who are victims of sex trafficking.

(3) Information on State efforts to ensure children in foster care form and maintain long-lasting connections to caring adults, even when a child in foster care must move to another foster family home or when the child is placed under the supervision of a new caseworker.

TITLE II—IMPROVING OPPORTUNITIES FOR YOUTH IN FOSTER CARE AND SUPPORTING PERMANENCY

SEC. 201. SUPPORTING NORMALCY FOR CHILDREN IN FOSTER CARE.

(a) REASONABLE AND PRUDENT PARENT STANDARD.—

(1) DEFINITIONS RELATING TO THE STANDARD.—Section 475 of the Social Security Act (42 U.S.C. 675) is amended by adding at the end the following:

“(9)(A) The term ‘reasonable and prudent parent standard’ means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

“(B) For purposes of subparagraph (A), the term ‘caregiver’ means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.

“(10) The term ‘age or developmentally-appropriate’ means—

“(A) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

“(B) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.”.

(2) STATE PLAN REQUIREMENT.—Section 471(a)(24) of such Act (42 U.S.C. 671(a)(24)) is amended—

(A) by striking “include” and inserting “includes”;

(B) by striking “and that such preparation” and inserting “that the preparation”; and

(C) by inserting “, and that the preparation shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities, in-

cluding knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities” before the semicolon.

(3) TECHNICAL ASSISTANCE.—The Secretary of Health and Human Services shall provide assistance to the States on best practices for devising strategies to assist foster parents in applying a reasonable and prudent parent standard in a manner that protects child safety, while also allowing children to experience normal and beneficial activities, including methods for appropriately considering the concerns of the biological parents of a child in decisions related to participation of the child in activities (with the understanding that those concerns should not necessarily determine the participation of the child in any activity).

(b) NORMALCY FOR CHILDREN IN CHILD CARE INSTITUTIONS.—Section 471(a)(10) of such Act (42 U.S.C. 671(a)(10)) is amended to read as follows:

“(10) provides—

“(A) for the establishment or designation of a State authority or authorities that shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for the institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which shall permit use of the reasonable and prudent parenting standard;

“(B) that the standards established pursuant to subparagraph (A) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B and shall require, as a condition of any contract entered into by the State agency and a child care institution, the presence on-site of at least 1 official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as prospective foster parents are provided the training pursuant to paragraph (24);

“(C) that the standards established pursuant to subparagraph (A) shall include policies related to the liability of foster parents and private entities under contract by the State involving the application of the reasonable and prudent parent standard, to ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard; and

“(D) that a waiver of any standards established pursuant to subparagraph (A) may be made only on a case-by-case basis for nonsafety standards (as determined by the State) in relative foster family homes for specific children in care;”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, without regard to whether regulations to implement the amendments have been promulgated by that date.

(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

SEC. 202. IMPROVEMENTS TO ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT AS A PERMANENCY OPTION.

(a) ELIMINATION OF THE OPTION FOR CHILDREN UNDER AGE 16.—

(1) IN GENERAL.—Section 475(5)(C)(i) of the Social Security Act (42 U.S.C. 675(5)(C)(i)) is amended by inserting “only in the case of a child who has attained 16 years of age” before “(in cases where)”.

(2) CONFORMING AMENDMENT.—Section 422(b)(8)(A)(iii)(II) of such Act (42 U.S.C. 622(b)(8)(A)(iii)(II)) is amended by inserting “, subject to the requirements of sections 475(5)(C) and 475A(a)” after “arrangement”.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—Part E of title IV of such Act (42 U.S.C. 670 et seq.) is amended by inserting after section 475 the following:

“SEC. 475A. ADDITIONAL CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

“(a) REQUIREMENTS FOR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT.—In the case of any child for whom another planned permanent living arrangement is the permanency plan for the child, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

“(1) DOCUMENTATION OF INTENSIVE, ONGOING, UNSUCCESSFUL EFFORTS FOR FAMILY PLACEMENT.—At each permanency hearing held with respect to the child, the State agency documents the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for children in the child welfare system.

“(2) REDETERMINATION OF APPROPRIATENESS OF PLACEMENT AT EACH PERMANENCY HEARING.—The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:

“(A) Ask the child about the desired permanency outcome for the child.

“(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to—

“(i) return home;

“(ii) be placed for adoption;

“(iii) be placed with a legal guardian; or

“(iv) be placed with a fit and willing relative.

“(3) DEMONSTRATION OF SUPPORT FOR ENGAGING IN AGE OR DEVELOPMENTALLY-APPROPRIATE ACTIVITIES AND SOCIAL EVENTS.—At each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure the child’s foster family home or child care institution is following the reasonable and prudent parent standard.”.

(2) CONFORMING AMENDMENTS.—

(A) STATE PLAN REQUIREMENTS.—

(i) PART B.—Section 422(b)(8)(A)(ii) of such Act (42 U.S.C. 622(b)(8)(A)(ii)) is amended by inserting “and in accordance with the requirements of section 475A” after “section 475(5)”.

(ii) PART E.—Section 471(a)(16) of such Act (42 U.S.C. 671(a)(16)) is amended—

(I) by inserting “and in accordance with the requirements of section 475A” after “section 475(1)”; and

(II) by striking “section 475(5)(B)” and inserting “sections 475(5) and 475A”.

(B) DEFINITIONS.—Section 475 of such Act (42 U.S.C. 675) is amended—

(i) in paragraph (1), in the matter preceding subparagraph (A), by inserting “meets the requirements of section 475A and” after “written document which”; and

(ii) in paragraph (5)(C)—

(I) by inserting “, as of the date of the hearing,” after “compelling reason for determining”; and

(II) by inserting “subject to section 475A(a),” after “another planned permanent living arrangement.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pur-

suant to part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

SEC. 203. EMPOWERING FOSTER YOUTH AGE 14 AND OLDER IN THE DEVELOPMENT OF THEIR OWN CASE PLAN AND TRANSITION PLANNING FOR A SUCCESSFUL ADULTHOOD.

(a) **IN GENERAL.**—Section 475(1)(B) of the Social Security Act (42 U.S.C. 675(1)(B)) is amended by adding at the end the following: “With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child’s case planning team may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.”

(b) **CONFORMING AMENDMENTS TO INCLUDE CHILDREN 14 AND OLDER IN TRANSITION PLANNING.**—Section 475 of such Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)(D), by striking “Where appropriate, for a child age 16” and inserting “For a child who has attained 14 years of age”; and

(2) in paragraph (5)—

(A) in subparagraph (C)—

(i) by striking “and” at the end of clause (ii); and

(ii) by adding at the end the following: “and (iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;” and

(B) in subparagraph (I), by striking “16” and inserting “14”.

(c) **TRANSITION PLANNING FOR A SUCCESSFUL ADULTHOOD.**—Paragraphs (1)(D), (5)(C)(i), and (5)(C)(iii) of section 475 of such Act (42 U.S.C. 675) are each amended by striking “independent living” and inserting “a successful adulthood”.

(d) **LIST OF RIGHTS.**—Section 475A of such Act, as added by section 202(b)(1) of this Act, is amended by adding at the end the following:

“(b) **LIST OF RIGHTS.**—The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include a document that describes the rights of the child with respect to education, health, visitation, and court participation, and to staying safe and avoiding exploitation, and a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.”

(e) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress regarding the implementation of the amendments made by this section. The report shall include—

(1) an analysis of how States are administering the requirements of paragraphs (1)(B) and (5)(C) of section 475 of the Social Security Act, as amended by subsections (a) and (b) of this section, that a child in foster care who has attained 14 years of age be permitted to select up to 2 members of the case planning team or permanency planning team for the child from individuals who are not a foster parent of, or caseworker for, the child; and

(2) a description of best practices of States with respect to the administration of the requirements.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

(2) **DELAY PERMITTED IF STATE LEGISLATION REQUIRED.**—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

TITLE III—IMPROVING DATA COLLECTION AND REPORTING ON CHILD SEX TRAFFICKING

SEC. 301. INCLUDING SEX TRAFFICKING DATA IN THE ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM.

(a) **IN GENERAL.**—Section 479(c)(3) of the Social Security Act (42 U.S.C. 679(c)(3)) is amended—

(1) in subparagraph (C)(iii), by striking “and” after the comma; and

(2) by adding at the end the following:

“(E) the annual number of children in foster care who are identified as victims of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(10))) or a severe form of trafficking in persons described in section 103(9)(A) of such Act—

“(i) who were such victims before entering foster care; and

“(ii) who were such victims while in foster care; and”.

(b) **REPORT TO CONGRESS.**—Beginning in fiscal year 2016, the Secretary of Health and Human Services shall submit an annual report to Congress that contains the annual aggregate number of children in foster care who are identified as victims of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(10))) or a severe form of trafficking in persons described in section 103(9)(A) of such Act, together with such other information as the Secretary determines appropriate relating to the identification of, and provision of services for, that population of children.

SEC. 302. INFORMATION ON CHILDREN IN FOSTER CARE IN ANNUAL REPORTS USING AFCARS DATA; CONSULTATION.

Section 479A of the Social Security Act (42 U.S.C. 679b) is amended—

(1) by striking “The Secretary” and inserting the following:

“(a) **IN GENERAL.**—The Secretary”;

(2) in paragraph (5), by striking “and” after the semicolon;

(3) in paragraph (6)(C), by striking the period at the end and inserting a semicolon;

(4) by adding at the end the following:

“(7) include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including—

“(A) the number of children in the placements and their ages, including separately, the number and ages of children who have a permanency plan of another planned permanent living arrangement;

“(B) the duration of the placement in the settings (including for children who have a permanency plan of another planned permanent living arrangement);

“(C) the types of child care institutions used (including group homes, residential treatment, shelters, or other congregate care settings);

“(D) with respect to each child care institution or other setting that is not a foster family home, the number of children in foster care residing in each such institution or non-foster family home;

“(E) any clinically diagnosed special need of such children; and

“(F) the extent of any specialized education, treatment, counseling, or other services provided in the settings; and

“(8) include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on children in foster care who are pregnant or parenting.”; and

(5) by adding at the end the following:

“(b) **CONSULTATION ON OTHER ISSUES.**—The Secretary shall consult with States and organizations with an interest in child welfare, including organizations that

provide adoption and foster care services, and shall take into account requests from Members of Congress, in selecting other issues to be analyzed and reported on under this section using data available to the Secretary, including data reported by States through the Adoption and Foster Care Analysis and Reporting System and to the National Youth in Transition Database.”.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 4058 as amended, the “Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act,” as ordered reported by the Committee on Ways and Means on April 29, 2014, requires States to take steps to prevent, identify, and address sex trafficking of youth in foster care. Specifically, the legislation requires States to determine whether youth in foster care and other youth being served by State child welfare agencies have been victims of sex trafficking and determine appropriate services for youth victims. States are also required to document instances of sex trafficking, report these cases to law enforcement and the National Center for Missing and Exploited Children (NCMEC), and report data to the U.S. Department of Health and Human Services (HHS) so this information can be used to better prevent sex trafficking in the future.

This legislation requires States to provide foster parents with more authority to make day-to-day decisions regarding their foster child’s participation in age-appropriate activities, allowing youth in foster care to have more everyday childhood experiences such as spending time with friends, playing sports, getting a driver’s license, or working a summer job. States also are required to implement a plan to more quickly locate youth who run away from foster care, determine why these youth ran from care, and take steps to address the factors that led them to run from care to better prevent these youth from becoming victims of sex trafficking.

This legislation ensures States do more to quickly move kids out of foster care and into permanent, loving families. For children under age 16, States can no longer designate long-term foster care as a goal for a child (a status called “Another Planned Permanent Living Arrangement” or APPLA, which indicates the State does not plan to return the child home or place the child in an adoptive home, with a relative, or with a legal guardian). For children age 16 and older who have APPLA as a goal, States are required to document ongoing efforts to place the child in a permanent home and explain why other options are not in the best interest of the child.

This legislation also requires States to ensure youth in foster care are better prepared for a successful adulthood. Under this bill, youth in foster care who are age 14 or older are allowed to assist in the development of their own case plans, including by selecting individuals to be part of the team preparing their plans.

B. BACKGROUND AND THE NEED FOR LEGISLATION

On February 14, 2014, Representative David Reichert (R-WA), Chairman of the Committee on Ways and Means Subcommittee on Human Resources, and Representative Lloyd Doggett (D-TX), Ranking Member of the Subcommittee, introduced H.R. 4058, which requires States to better prevent and identify sex trafficking,

help ensure youth in foster care do not become victims of this crime, and confirm youth in foster care have the tools they need to become successful adults.

Through Committee hearings, discussions with child welfare administrators and other experts, and conversations with youth who have experienced foster care first hand, it has become clear that today's foster care system is not adequately identifying and addressing instances of sex trafficking of youth in foster care. A number of child welfare experts, foster parents, and former foster youth have also pointed out how some child welfare policies hinder children's chances to participate in normal childhood activities, further disconnecting these youth from the friends, family, and community supports they need to thrive.

Evidence suggests many children involved in sex trafficking have had contact with the foster care system

There are a number of different estimates of how many children become victims of sex trafficking. While little comprehensive information is available to indicate the exact size of the problem, a 2009 report by Shared Hope International offers some insight into the magnitude of the issue. Shared Hope International began working with 10 Department of Justice-funded human trafficking task forces to assess the problem, focusing on identifying instances of domestic sex trafficking across the 10 jurisdictions. The total number of suspected victims of sex trafficking in these jurisdictions amounted to almost 6,000 child victims from across the country, which included areas in Texas, Nevada, Missouri, Louisiana, New York, Utah, and Florida.¹

Additional information on the scope of the problem is available from the Human Trafficking Reporting System funded by the Department of Justice, which reveals that Federally-funded human trafficking task forces opened 2,515 investigations of human trafficking between January 1, 2008 and June 30, 2010. Of these cases, 82 percent involved sex trafficking, with 40 percent involving prostitution or sexual exploitation of a child.²

Recent reports also have highlighted the disturbing connection between sex trafficking and the nation's foster care system. In 2010, 59 percent of the 174 juveniles arrested on prostitution charges in Los Angeles County were in the foster care system.³ Additionally, a report conducted by the California Child Welfare Council summarizing data from a number of cities in the State found that between 50 and 80 percent of victims of sex trafficking are or were involved with the child welfare system.⁴ Further, of children reported missing to the National Center for Missing and Exploited Children (NCMEC) who are also likely sex trafficking

¹ Shared Hope International, *The International Report on Domestic Minor Sex Trafficking: Americas Prostituted Children*. May 2009. Found online at: http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf

² Bureau of Justice Statistics, U.S. Department of Justice, *Characteristics of Suspected Human Trafficking Incidents*, 2008–2010. April 2011. Found online at: <http://www.bjs.gov/content/pub/pdf/cshti0810.pdf>

³ Sewell, Abby, *Most L.A. County Youths Held for Prostitution Come from Foster Care*, Los Angeles Times. November 27, 2012. Found online at: <http://articles.latimes.com/2012/nov/27/local/la-me-1128-sex-trafficking-20121128>

⁴ Walker, Kate, California Child Welfare Council, *Ending the Commercial Sexual Exploitation of Children: A Call for Multi-System Collaboration in California*. 2013. Found online at: http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf

victims, 60 percent were in foster care or group homes when they ran away.⁵ Others have reported that trafficking perpetrators often target youth in foster care or youth living in group homes.

Even with the evidence showing the linkage between sex trafficking and the foster care system, the current child welfare system in most States has not been effective at identifying and helping those who are at risk of being trafficked. The establishment of processes identified in this legislation will aid in the effort to better combat sex trafficking and ensure youth involved with the foster care system do not become victims.

Some child welfare policies may increase the risk of harm to children placed in foster care

As reviewed by the Subcommittee on Human Resources in a May 9, 2013 hearing, some foster care policies have made it difficult for foster youth to participate in everyday activities such as playing sports, spending time with friends, or getting a driver's license. While well intentioned, these policies can increase the youth's isolation and separation from family and friends, exposing them to far greater dangers—including susceptibility to becoming a victim of sex trafficking.⁶

While foster care can protect children from further abuse and neglect, children who stay in foster care for extended periods can experience troubling outcomes, especially those who leave foster care at age 18 without being placed in a permanent home. Research shows that children who spend substantial time in foster care are less likely to graduate from high school, attend college, be employed, or have enough income to support a family, when compared to their peers not in the foster care system. Additionally, youth who spend extended periods in foster care are also more likely to become teen parents, collect welfare, become homeless, be arrested, or use drugs.⁷ As long-term foster care can lead to such poor outcomes, it is important that the Federal government enact changes to current policies to ensure youth have improved opportunities to succeed.

C. LEGISLATIVE HISTORY

Background

On December 20, 2013, the Subcommittee released a draft bill addressing child sex trafficking building on bipartisan legislative proposals developed by Representative Erik Paulsen (R-MN) and other Members of Congress and incorporating recommendations suggested by witnesses at three Ways and Means hearings. The public submitted over 150 pages of comments on the draft, and those comments informed a number of changes that were incorporated into H.R. 4058, which was introduced on February 14, 2014, and referred to the Committee on Ways and Means.

⁵National Center for Missing and Exploited Children. August 2013. Found online at: <http://blog.missingkids.com/post/56795201973/the-national-center-for-missing-exploited>

⁶Committee on Ways and Means. *Letting Kids Be Kids: Balancing Safety with Opportunity for Foster Youth*. May, 9 2013. Found online at: <http://waysandmeans.house.gov/calendar/eventsingle.aspx?EventID=332391>

⁷Hansen, Mary E. *The Value of Adoption*. American University Department of Economics Working Paper Series. December 2006. Found online at: <http://w.american.edu/cas/economics/repec/amu/workingpapers/1506.pdf>

Committee Action

The Committee on Ways and Means marked up the bill on April 29, 2014, and ordered the bill, as amended, favorably reported. The amendments incorporated into H.R. 4058 as introduced were reflected in a Chairman's Amendment in the Nature of a Substitute, which included a series of technical edits suggested by the Congressional Research Service as well as the removal of Section 204 of the legislation as introduced.

Committee Hearings

On May 9, 2013, the Subcommittee on Human Resources convened a hearing titled "Letting Kids be Kids: Balancing Safety with Opportunity for Foster Youth." This hearing brought together witnesses who spoke about some of the difficulties faced by foster parents and youth in foster care that make it difficult for youth to participate in activities with their peers, including examples of how youth were unable to play on a school sports team, vacation with their foster family, attend a summer camp, or get a part-time job.

On October 23, 2013, the Subcommittee on Human Resources held a hearing on preventing and addressing sex trafficking of youth in foster care. During this hearing, the Subcommittee heard testimony from a number of experts, including a survivor of sex trafficking, as well as from individuals working to assist survivors and protect youth in foster care. Together these witnesses reiterated how serious the issue of sex trafficking is and how the child welfare system can be improved to prevent children in foster care from becoming victims of this crime.

On February 19, 2014, the Subcommittee on Human Resources conducted a field hearing in Auburn, Washington, focused on efforts to prevent and address sex trafficking in Washington State. The witnesses at this hearing discussed the current initiatives of law enforcement, local and State government, and victim advocacy groups. The witnesses identified local efforts that help combat sex trafficking and assist those who have been victimized, and witnesses also provided input on legislative proposals to better identify and assist victims of sex trafficking in the foster care system.

II. EXPLANATION OF THE BILL

SECTIONS 1–3. SHORT TITLE, TABLE OF CONTENTS, AND FINDINGS

Present Law

Not applicable.

Explanation of Provision

The Act's short title is the "Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act."

The legislation includes a table of contents as well as a series of Congressional findings noting the estimated scope of children at risk of sex trafficking and the particular vulnerability of children who age out of foster care. It finds that the current child welfare system does not respond to the needs of children who are victims of, or at risk of, sex trafficking and, further, that it may increase the vulnerability of youth in care to sex trafficking, homelessness and other negative outcomes. To combat sex trafficking and to im-

prove outcomes for children in foster care, the bill seeks “systemic” changes to the child welfare system that focus on: (1) reducing the number of children in long-term foster care; (2) increasing the engagement of children in foster care in their own case planning; (3) improving efforts to locate and respond to children who have run away from foster care and reducing the number of children who run from care; (4) enabling youth to participate in age-appropriate activities and to connect with caring adults; and (5) improving child welfare agency efforts—in collaboration with the courts, local law enforcement agencies, juvenile justice agencies, schools, and social service providers—to prevent, identify and intervene in cases of domestic child sex trafficking.

Reason for Change

Recent reports have highlighted a disturbingly strong connection between the foster care system and victims of sex trafficking. In light of this, the Committee believes State child welfare agencies must do more to both identify instances of sex trafficking among foster youth and prevent it from happening in the first place. The Committee also understands that some foster care policies make it difficult for youth in foster care to participate in activities that help them connect with families, friends, and others in their communities, and believes States should take steps to empower youth to participate in age-appropriate activities which will reduce their vulnerability to sex trafficking and other negative outcomes.

TITLE I: IDENTIFYING AND PROTECTING YOUTH AT RISK OF SEX TRAFFICKING

SECTION 101. IDENTIFYING AND SCREENING YOUTH AT RISK OF SEX TRAFFICKING

Present Law

The Trafficking Victims Protection Act (TVPA) defines sex trafficking as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act” and any severe form of trafficking in persons in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age (Sec. 103(9)(A) and (10) of the TVPA [22 U.S.C. 7102 (9)(A) and (10)]).

For purposes of Title IV-E (and Title IV-B) of the Social Security Act, the term “child” refers to an individual under the age of 18, or at State option, an individual up to age 19, 20, or 21 who remains in foster care and who meets certain additional criteria (Sec. 475(8)). Youth who “age out” of foster care may receive services under the Chafee Foster Care Independence Program up to age 21 (or up to age 23 for certain youth receiving Education and Training Vouchers) (Sec. 477(a)).

A State child welfare agency is required, under the Title IV-E plan requirements, to report to an appropriate agency or official known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under any Federal child welfare program authorized in Title IV-E or Title IV-B (Sec. 471(a)(9)).

Explanation of Provision

The legislation requires the State child welfare agency, in consultation with organizations dealing with at-risk youth, to develop policies and procedures for identifying, screening, and determining appropriate State actions and services for children whom the State has reasonable cause to believe are victims of sex trafficking or at risk of being victims of sex trafficking. For purposes of this provision, the legislation defines sex trafficking as it is currently defined in the TVPA (Sec. 103(9)(A) and (10) [22 U.S.C. 7102 (9)(A) and (10)]).

The policies and procedures developed under the State's Title IV-E plan must address relevant training for caseworkers and apply to any child over whom the State child welfare agency has responsibility for placement, care or supervision, including children in foster care, children living in their own homes but for whom the child welfare agency has an open case file, and youth who are receiving services under the Chafee Foster Care Independence Program. Additionally, States are permitted to apply these policies and procedures to any individual up to the age of 26 (regardless of his or her current or former foster care status).

Each State must demonstrate to the U.S. Department of Health and Human Services (HHS) that it has developed these policies and procedures no later than one year after the date of enactment of this bill, and demonstrate that it was implementing them—in consultation with the child protective services agency or unit for the State—no later than two years after the date of enactment.

Reason for Change

State child welfare agencies currently work with youth victims of sexual abuse and provide services to victims. Recent news articles, police reports, reports from the National Center for Missing and Exploited Children (NCMEC), and other sources highlight how a large share of youth found to be victims of sex trafficking have had previous contact with the child welfare system. The Committee believes that State child welfare agencies can and should develop effective procedures for preventing the sex trafficking of youth in foster care as well as better serve youth victims of this crime.

SECTION 102. DOCUMENTING AND REPORTING INSTANCES OF SEX TRAFFICKING

Present Law

No specific related provision. To receive Title IV-E funds, a State must have a plan consistent with the Federal Title IV-E plan requirements that is approved by HHS (Sec. 471).

The National Crime Information Center (NCIC) is a computerized index of information on crimes and criminals that is maintained by the Federal Bureau of Investigation (FBI) (28 U.S.C. 534). The National Center for Missing and Exploited Children (NCMEC) is a non-profit organization that receives Federal funding to carry out activities authorized in Federal law, including supporting law enforcement agencies and families in missing children and child sexual exploitation cases (Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5771 et. seq]).

Explanation of Provision

No later than two years after the date of enactment, the legislation requires the State child welfare agency (under its Title IV-E plan) to:

- Identify and document appropriately in agency records each child identified as a victim of sex trafficking for whom the State child welfare agency has responsibility for placement, care or supervision, including children in foster care, children living in their own homes but for whom the child welfare agency has an open case file, and youth who are receiving services under the Chafee Foster Care Independence Program; and
- “Immediately” report information on children identified as victims of sex trafficking to law enforcement authorities, and in no case more than 24 hours after it was received.

For purposes of these Title IV-E requirements, the legislation defines sex trafficking as it is currently defined in Sec. 103(9)(A) and (10) of the TVPA [22 U.S.C. 7102 (9)(A) and (10)].

No later than two years after enactment of this provision, the legislation requires the State child welfare agency (as part of its Title IV-E plan) to make available to the public via the agency’s website a regularly updated description of the specific measures it takes to protect and serve child victims of sex trafficking, including efforts to coordinate with State law enforcement, schools, juvenile justice agencies, as well as social service agencies (such as runaway and homeless youth shelters and transitional and other supportive housing providers).

No later than two years after the enactment of this provision, the legislation requires the State child welfare agency (under its Title IV-E plan) to provide information on missing or abducted children to law enforcement authorities for entry into the NCIC and to the NCMEC. The information is to be relayed “immediately” and in no case more than 24 hours after the information was received.

The legislation requires HHS to issue regulations to implement these new reporting requirements and to provide uniform definitions for the reports State child welfare agencies are required to make to law enforcement agencies (concerning sex trafficking victims and missing or abducted children) and to the NCMEC (concerning missing or abducted children).

Reason for Change

While some information is available regarding the number of victims of child sex trafficking, little comprehensive data exists to illustrate the magnitude of the problem. This bill would ensure State child welfare agencies document instances of sex trafficking so States and the Federal government have better information on matters such as how many instances of child sex trafficking are identified in the child welfare system and where these instances are occurring. Once a State identifies an incident of sex trafficking, it must immediately report this information to law enforcement so the case can be investigated. This bill requires States to report information on instances of child sex trafficking to law enforcement, as well as report missing or abducted children to the NCMEC as these children are potential victims of sex trafficking. Together, these changes will ensure more victims are identified and that bet-

ter information is available on the problem of sex trafficking nationally.

In many States, little information is available on efforts to combat sex trafficking across agencies. To ensure States work collaboratively with various groups such as schools, juvenile justice agencies, and transitional and supportive housing providers to address sex trafficking, this bill also requires States to describe the collaborative efforts they are taking to address the problem and ensure this information is available to the public.

State child welfare agency officials should notify law enforcement as soon as a child is identified as a victim of sex trafficking. This bill will ensure States report this information to law enforcement quickly so the proper steps can be taken to both address the issue, as well as work to prevent any other children from becoming victims. This bill also requires States to provide information on children missing or abducted from foster care to the NCIC, ensuring that this data is immediately available to all law enforcement officials nationwide. This same information would be reported to the NCMEC, which provides a range of services to organizations working to locate and serve missing children as well as prevent and address child sex trafficking. Together, these provisions will ensure State child welfare agencies improve coordination with law enforcement and that additional experts are more quickly involved in locating children missing from foster care.

SECTION 103. STATE PLAN REQUIREMENT TO LOCATE AND RESPOND TO CHILDREN WHO RUN AWAY FROM FOSTER CARE

Present Law

No specific related provision. To receive Title IV-E funds, a State must have a plan consistent with the Federal Title IV-E plan requirements approved by HHS (Sec. 471).

Explanation of Provision

As part of the Title IV-E plan, the legislation requires the State child welfare agency to develop and implement protocols related to children who run away from foster care. The protocols would need to address:

- Expediently locating any child missing from foster care;
- Determining the primary factors that contributed to the child's running away or otherwise being absent from care, and responding to those factors in current and subsequent placements (to the extent appropriate and possible);
- Determining what happened to the child while he or she was absent from care, including a determination of whether the child may be a victim of sex trafficking; and
- Reporting such related information as required by HHS.

Reason for Change

Children who run away from foster care are at high risk of becoming victims of sex trafficking and other crimes. This provision will improve our understanding of factors that may lead children to run away from foster care, as well as ensure each State implements a plan to reduce the number of children who run away from care. This provision will also require States to screen runaways to

determine if they were victims of sex trafficking while absent, ensuring more children are quickly identified as victims so they can receive the appropriate services.

SECTION 104. INCREASING INFORMATION ON YOUTH IN FOSTER CARE
TO PREVENT SEX TRAFFICKING

Present Law

Under the Adoption and Foster Care Analysis and Reporting System (AFCARS), developed pursuant to Section 479, States provide regular data to HHS concerning each child in foster care. This includes the child's demographic characteristics and certain information related to his or her foster care experiences (such as the reason for entry to care, length of stay, placement setting, and other factors).

Explanation of Provision

No later than one year after the enactment of this provision, the legislation requires HHS to submit a written report to Congress summarizing information on: (1) the characteristics of children who run away from foster care, including potential factors associated with children running from care, their experiences while absent from care, and trends in their numbers; (2) State efforts to provide specialized services, foster family homes, or child care institutions for child victims of sex trafficking; and (3) State efforts to ensure children in foster care form and maintain long-lasting connections to caring adults (even when a child must move to a new foster family home or be placed under the supervision of a new caseworker).

The information on children who run away is to be based on data reported by States, via AFCARS, as well as data gathered by States under their protocols for responding to children who run away from foster care.

Reason for Change

Although children who run away from foster care are at high risk of becoming victims of crimes such as sex trafficking, little information is now available regarding children who run away, why they run away, and where they spend time while away from care. This provision will improve our understanding of factors that may lead children to run away from foster care, providing data to inform future policy changes at the Federal, State, and local level that can reduce these incidents. In addition, requiring HHS to report information on State efforts to serve victims of trafficking will help create a national picture of what services are provided currently and what additional services may be needed.

Youth formerly in foster care often describe the importance of having long-term relationships with foster parents, guardians, teachers, mentors, and others. Under the bill, HHS will collect and report information on States' efforts to promote long-lasting relationships between youth in foster care and adult role models. Requiring HHS to report this information to Congress will also ensure State practices are shared more widely, providing useful information to other States that may be interested in developing policies in this area.

TITLE II: IMPROVING OPPORTUNITIES FOR YOUTH IN FOSTER CARE AND SUPPORTING PERMANENCY

SECTION 201. SUPPORTING NORMALCY FOR CHILDREN IN FOSTER CARE

Present Law

Current law defines terms that apply to the Federal foster care program under Title IV–E, as well as other child welfare programs in that part and in Title IV–B (Sec. 475).

As part of its Title IV–E plan, each State child welfare agency must certify that before it places a child in foster care with prospective foster parents, the prospective foster parents are prepared with adequate skills and knowledge to meet the needs of the child and that this preparation will continue, as needed, once the child is placed with those foster parents (Sec. 471(a)(24)).

Under its Title IV–E plan, a State child welfare agency must establish, or designate another State authority to establish, licensing standards that apply to each foster family home or child care institution that provides foster care (for any child under the responsibility of the State). These standards must be reasonably in accord with recommended standards of appropriate national organizations and must address admission policies, safety, sanitation, and protection of civil rights. The same standards must be applied to each foster family home, except that, on a case-by-case basis (and for a specific child in care), a State may waive a non-safety standard for a relative foster family home.

Explanation of Provision

For purposes of the Federal foster care program in Title IV–E and other child welfare programs in that part and in Title IV–B, the legislation defines “reasonable and prudent parent standard” as “the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child,” and as the standard that a caregiver—the child’s foster parent or a designated official at the child care institution where a child is placed—must use “when determining whether to allow a child in foster care to participate in extra-curricular, enrichment, cultural, and social activities.”

The legislation goes on to define “age or developmentally appropriate” as “activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for the child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.” Further, with respect to a specific child, “age and developmentally appropriate” is defined to mean “activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.”

The legislation amends the requirement to prepare foster parents with adequate skills to meet the needs of the child they will care for by requiring the State to certify that this preparation will include knowledge and skills related to use of the “reasonable and prudent parent standard” for the child’s participation in “age and

developmentally appropriate” activities, including applying the standard to decisions concerning the child’s participation in activities and in arranging transportation for the child to and from those activities.

HHS must provide technical assistance to States on best practices to assist foster parents in applying the reasonable and prudent parent standard in a manner that protects child safety, allows children to experience normal and beneficial activities, and considers (but does not necessarily make determinative) the concerns of the child’s biological parents.

The legislation maintains current law licensing requirements, while adding a new requirement that the State’s licensing standards for foster family homes, and for child care institutions providing foster care, must permit the use of the reasonable and prudent parent standard.

The licensing standards must require that any contract entered into by the State child welfare agency with a child care institution (i.e., a congregate care provider of foster care) stipulate that the institution has on-site at least one designated official who, with respect to any child placed in the institution, is authorized to apply the “reasonable and prudent parent standard” to decisions about the child’s access to, or participation in, “age or developmentally appropriate” activities. Further, the designated official must be provided with training on the use and application of the “reasonable and prudent parent standard” (in the same manner as training is provided to foster parents on the standard).

The State’s standards for foster family homes and child care institutions must include policies related to the “appropriate” liability of foster parents and private entities under contract with the State involving the application of the “reasonable and prudent parent standard.”

The changes (including the definition of the “reasonable and prudent parent standard” and its application in training foster parents and in licensing standards) are generally effective one year after the date of enactment, without regard to whether regulations to implement the provisions have been promulgated. However, if HHS determines that a State must enact legislation (other than appropriations) in order to meet these additional Title IV–E plan requirements, then the State may have limited additional time to come into compliance with these requirements.

Reason for Change

As reviewed in a May 2013 Subcommittee hearing, entering foster care is a life-changing experience for children. Not only have these children been abused or neglected, but they also have been separated from parents and face other significant changes in their lives. Often they begin attending a new school, where they have to start over making friends, fitting in, and participating in sports and activities. All of this makes it even harder for children in foster care to succeed.

Adding to these difficulties, some foster care policies and practices have the unintended effect of making life even harder for foster youth. For example, some State foster care rules have made it difficult for foster youth to participate in sports, sleep over at a friend’s house, obtain a driver’s license, or get a part-time job.

Often such practices are done in the name of protecting youth; but State testimony to the Subcommittee on Human Resources suggests that such practices have unintentionally isolated youth in foster care (especially teens) from their peers, increasing their exposure to sex trafficking and other dangers.

The testimony of former foster youth on the lack of normalcy in their lives is compelling: “Growing up in the foster care system, I felt like I was in captivity. Many times I was separated from the things that meant so much to me and the only reasoning that was given to me was, ‘It’s the County rules’ or ‘We have to get the County to approve.’ This reference was towards the same County officials who skipped out on mandated monthly visits, placed me into foster homes that were unfit for any child to live in and overlooked my plea to play sports because it was more important for me to see a therapist. I remember the many different experiences that I had as a foster child where I would pray to God to take me off this earth because I wanted so badly not to be a foster child.”⁸

To overcome such barriers and better promote the healthy development of young people in foster care, the legislation encourages all States to replicate recent efforts in some States to eliminate rules that have kept foster youth from being treated like other children. For example, California and Florida have examined State foster care policies and made reforms designed to allow foster youth to be treated more like other kids—including participating in age-appropriate activities like sports, sleepovers with friends, getting a part-time job, and getting a driver’s license.⁹

To address this issue, the legislation defines key terms that govern the actions of foster parents (whose actions should abide by a “reasonable and prudent parent standard”) and foster youth (who should be permitted to participate in “age or developmentally appropriate” activities). In doing so, the Committee’s intent is to allow all youth in foster care to achieve greater normalcy in their lives and thereby strengthen their bonds to friends, family, and their community and improve their chances of growing up to be successful adults.

The Committee also regards the achievement of greater normalcy for youth to be an essential ingredient to preventing negative outcomes such as sex trafficking—both by occupying children’s free time with constructive activities such as sports or a part-time job, and by giving them increased connections to responsible adults with their best interests at heart.

Training is an essential component of any change in the foster care system, especially one designed to affect how foster parents care for youth placed in their trust. Thus, the legislation requires States to incorporate training on what is meant by the “reasonable and prudent parent standard” and “age and developmentally appropriate” activities in future training for foster parents. Ultimately, the intent of the legislation is that this training translates into greater normalcy for foster youth, who would experience both

⁸Committee on Ways and Means. Letting Kids Be Kids: Balancing Safety with Opportunity for Foster Youth. Testimony of Talitha James. May, 9 2013. Found online at: http://waysandmeans.house.gov/uploadedfiles/talitha_james_testimony_hr050913.pdf

⁹Children’s Law Center of Los Angeles, “Living a Normal Life.” Found online at: http://www.clcla.org/Images/pdfs/pdfs_whatsnew_columns/Living_Normal_Life.pdf and Governor Rick Scott: “Let Kids Be Kids.” Found online at: <http://www.flgov.com/2013/04/11/gov-scott-let-kids-be-kids/>

better outcomes in general and, in extreme cases, reduced exposure to sex traffickers who prey on disconnected youth in foster care.

The Committee expects HHS to provide technical assistance to all States on best practices developed by States that have already taken steps to improve the normalcy of youth in foster care. It is the Committee's intent that the changes related to the definitions of the "reasonable and prudent parent standard" and "age or developmentally appropriate activities" be applied in all settings, including in congregate care settings. The Committee notes that, as disclosed in its hearing series on sex trafficking of youth in foster care, youth in congregate care settings—including girls as young as 13—are targeted by sex traffickers.¹⁰ As described by one witness, a key reason for their vulnerability is precisely the lack of normalcy in their lives and absence of responsible adults to whom they can turn: "Youth within the system are more vulnerable to becoming sexually exploited because youth accept and normalize the experience of being used as an object of financial gain by people who are supposed to care for us, we experience various people who control our lives, and we lack the opportunity to gain meaningful relationships and attachments."¹¹ It is to combat such effects that the legislation expects States to incorporate these changes in all foster care settings, including congregate care where young people have been shown to be especially vulnerable to sex trafficking.

SECTION 202. IMPROVEMENTS TO ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT AS A PERMANENCY OPTION

Present Law

States must ensure court determination of a permanency plan for each child who has been in foster care for at least 12 months. This permanency plan must be to reunite the child with his or her parent(s) or to place the child in an adoptive family, with a legal guardian, or with a fit and willing relative. However, if the State child welfare agency documents for the court a compelling reason that none of those options is in the child's best interest, then the court may establish the child's permanency plan as "another planned permanent living arrangement" (APPLA) (Sec. 475(5)(C)(i)).

Further, a State must have a service program designed to help children in foster care achieve permanency through returning to their parents (when safe and appropriate), adoption, guardianship, placement with a fit and willing relative, or, if none of those options are appropriate, placement in some other planned permanent

¹⁰ As noted in an October 2008 article submitted by Rep. Paulsen for the record of the Subcommittee's October 23, 2013 hearing: "The foster child who brought down a suburban prostitution ring this summer has pale skin, pink cheeks, laughs often while visiting her biological family and wears a gold butterfly charm on black string around her neck. Her life, however, has been anything but carefree. On July 8, the 13-year-old girl and two other teens ran away from a suburban Chicago group home for foster children and made their way to a Lombard hotel to meet up with a 25-year-old pimp . . . This case is one of the recent handful that show how some group facilities designed to protect the state's most vulnerable and troubled foster children can become breeding grounds for the recruitment of child prostitutes, child welfare experts say." *Chicago Tribune*, "Foster Runaways Risk Prostitution," October 29, 2008. Found online at: http://articles.chicagotribune.com/2008-10-29/news/0810280420_1_prostitution-child-welfare-foster

¹¹ Committee on Ways and Means, *Preventing Sex Trafficking of Youth in Foster Care*. Testimony of Withelma "T" Ortiz Walker Pettigrew. October 23, 2013. Found online at: http://waysandmeans.house.gov/uploadedfiles/t_ortiz_walker_pettigrew_testimony_hr102313.pdf

living arrangement (including residential education programs) (Sec. 422(b)(8)(A)(iii)).

The terms “case plan” and “case review system” are defined in Title IV–E (Section 475). Under the Stephanie Tubbs Jones Child Welfare Services program (Title IV–B, Subpart 1) a State child welfare agency must meet all the case review system requirements, including those related to case planning, spelled out in these definitions for each child in foster care (Sec. 422(b)(8)(A)(ii)). Under the Title IV–E foster care program, the State child welfare agency is required to meet some of those case review requirements, including all those related to case planning, for each child in foster care who is eligible for Title IV–E assistance (Sec. 471(a)(16)).

Explanation of Provision

The legislation stipulates that no child under age 16 may have a permanency plan of APPLA. The legislation also requires that, at any annual permanency hearing involving a youth for whom the permanency plan is APPLA, the State child welfare agency must:

- Document the ongoing, but, to date, unsuccessful, efforts made to return the youth to his or her parents or to secure a placement for the youth with an adoptive parent, legal guardian, or a fit and willing relative (including adult siblings); these efforts must involve the use of “search technology,” including social media, to locate biological family members;
- Document the steps it is taking to ensure the child’s foster family home or child care institution is applying the reasonable and prudent parent standard; and
- Have procedures in place to ensure that the court conducting the hearing: (1) ask the child about his or her desired permanency outcome; (2) determine why (as of the date of the hearing) APPLA continues to be the best permanency plan for the child; and (3) provide compelling reasons why it continues to not be in the child’s best interest to be returned home, or be placed for adoption, with a legal guardian, or with a fit and willing relative.

The legislation makes conforming amendments to ensure the “case plan” and “case review system” definitions incorporate the new APPLA and related requirements. The legislation makes conforming amendments to ensure State child welfare agencies, as a condition of receiving Federal Title IV–E funding or funding under the Stephanie Tubbs Jones Child Welfare Services program, meet (for each child in foster care receiving Title IV–E assistance) the new case review requirements related to APPLA and additional case plan requirements (related to providing a list of rights for certain children in foster care added by Section 203).

The changes made by this section of the legislation—including restricting use of APPLA as a permanency plan by age and making additional requirements related to use of APPLA as a permanency option—would generally be effective one year after the date of enactment. However, if HHS determines that a State must enact legislation (other than appropriations) in order to meet these additional Title IV–E plan requirements, then the State may have limited additional time to come into compliance with the requirements.

Reason for Change

Because Congress was concerned about children languishing in foster care, the *Adoption and Safe Families Act of 1997* eliminated the permanency goal of “foster care on a permanent or long term basis” for children in foster care. Instead, States were required to ensure children in foster care returned home, were adopted, or were placed with a relative. If none of these placements was possible, the State could indicate that the child was being placed in “Another Planned Permanent Living Arrangement” or “APPLA,” which is a catchall category meant for youth for whom another arrangement was justified. However, in recent years there has been increasing concern that APPLA has simply become the new name for long-term foster care, undermining the 1997 reforms as well as rejecting a growing body of research indicating that long-term foster care is detrimental to the health and wellbeing of children.

As a result, the legislation makes several changes involving APPLA. For children under age 16, States can no longer designate the child as having a case goal of APPLA; this means that the case goal for all children in foster care under age 16 must be returning home or being placed with an adoptive parent, guardian, or relative. For children age 16 and older (who may continue to have APPLA as a goal), States must document their ongoing efforts to place such children in a permanent home and explain why other options are not in the best interests of the child. In each case, the goal is to support the use of foster care as only a temporary placement until a more permanent placement for the child can be arranged.

SECTION 203. EMPOWERING FOSTER YOUTH AGE 14 AND OLDER IN THE DEVELOPMENT OF THEIR OWN CASE PLAN AND TRANSITION PLANNING FOR A SUCCESSFUL ADULTHOOD

Present Law

States are required to develop a “case plan” for each child in foster care (Sec. 422(b)(8) and Sec. 471(a)(16)). This is defined as a written document, that—among other things—includes a plan to assure that the child receives safe and proper care, and that services are provided to the child along with his or her parents and foster parents in order to improve the conditions in the parents’ home (so that the child may return home) or to permit the child to exit care to another permanent family. The plan must also describe the safety and appropriateness of the child’s foster family home or other foster care living situation and discuss the appropriateness of services provided to the child in foster care. Further, and among other things, it must document efforts to ensure the child’s educational stability and include the child’s current education and health records (Sec. 475(1)).

“As appropriate,” the case plan for a child in foster care at age 16 or older must include a written description of the programs and services that will help the youth prepare for “independent living” (Sec. 475(1)(D)).

A State must have in place procedures to ensure that each child in foster care has a permanency hearing within 12 months of entering foster care, and every 12 months thereafter while he or she remains in foster care. The permanency hearing must be held in a

court (or by a court-appointed administrative body) and it must determine, or re-determine, the child's permanency plan (i.e., reunification, adoption, legal guardianship, placement with a fit or willing relative or APPLA) (Sec. 471(a)(16); Sec. 475(5)(C)).

The State child welfare agency must ensure any child in foster care at age 16 or older receives a copy of any credit report pertaining to the child (each year while the child remains in care). The agency must provide the report free of charge and assist the youth in resolving any inaccuracies in the report (Sec. 475(5)(I)).

The permanency hearing for any child in foster care at age 16 or older must determine the services necessary to help the child transition from foster care to independent living (Sec. 475(5)(C)(i)).

At any permanency hearing for a child in foster care, or any hearing involving the transition of a child from foster care to "independent living," the State must have procedures to ensure that the court (or court-appointed administrative body) consults with the child in an age-appropriate manner (Sec. 475(5)(C)(iii)).

The State child welfare agency must meet to develop a case plan for each child in foster care (Sec. 422(b)(8) and Sec. 471(a)(16)).

Explanation of Provision

For any child in foster care at age 14 or older, the legislation requires consultation with the child in the development of, or any revision to, his or her case plan. At the option of the youth, this consultation may include up to two members of the case planning team who are chosen by the youth and who are not the youth's foster parent or caseworker. A State is permitted to reject an individual selected by the child to be a part of the case planning team, if the State has good cause to believe that the individual would not act in the best interests of the child. The legislation also adds that one individual selected by the child to be a member of the case planning team may be designated as the youth's advisor, and, as necessary, may advocate for the child regarding application of the reasonable and prudent parent standard.

The legislation requires that the case plan for each child in care at age 14 or older must include a written description of the programs and services to help him or her prepare for "successful adulthood." It also amends Title IV-E generally to refer to the transition of a child from foster care to "successful adulthood" instead of "independent living."

For any child in foster care at age 14 or older, this case plan must include a document describing the child's rights with respect to education, health, visitation, court participation, and to staying safe and avoiding exploitation. The case plan would further need to include a signed acknowledgement by the child that he or she had been given a copy of the document listing these rights and that they were explained to him or her in an age-appropriate manner.

The legislation modifies the current requirement that the State child welfare agency provide a credit report, along with assistance in resolving any inaccuracies in the report, to any child in foster care at age 16 or older to make it applicable to children age 14 or older.

The legislation requires HHS to submit a report to Congress, within two years of the enactment of this Act, that includes an analysis of how States are administering the requirements to pro-

vide a list of rights to children in foster care at age 14 or older and to permit them to select up to two members of their case planning and permanency planning teams, along with a description of best practices of States with respect to the administration of these requirements.

The requirements added by this section of the legislation—related to consulting with children in care age 14 or older with regard to case planning and permanency planning, working to ensure a successful transition to adulthood for such children, and providing them with a list of rights—are generally effective one year after the date of enactment. However, if HHS determines that a State must enact legislation (other than appropriations) in order to meet these additional Title IV–E plan requirements, then the State may have limited additional time to come into compliance with the requirements.

Reason for Change

The legislation is designed to increase the control of youth in foster care over their own lives.

One witness before the Subcommittee ably described the lack of consultation with youth in her own case planning: “Too often young people in foster care have been entirely disconnected from their previous lives, and are never even asked, ‘What interests you?’ or ‘What were you involved in before foster care?’ or ‘What would you like to do?’ We must give young people a voice and a say in their own lives if we want them to flourish and explore their interests. Engaging young people in their case planning—where decisions about their life are made—is no different than a family sitting around the kitchen table talking with their teenager about the upcoming school year and planning what activities they want to be involved in, what kind of part-time job they might get over the summer, and other key decisions in the teenager’s life. States such as Iowa have implemented a youth decision-making model that emphasizes relationships and places the youth at the center of their planning, asking the young person about their dreams and goals . . . Federally, policies, incentives, and accountability measures could be further strengthened to ensure that youth-led case planning is utilized from the early teens.”¹²

The goal of the Committee’s legislation is to ensure that young people—as well as adults they trust—are consulted in their case planning. The intent is to both enhance the young person’s control over his or her case planning as a foster youth, as well as over his or her life in general. It is hard to underestimate the importance of that, and the consequences when a sense of such control is lacking. As a former foster youth who had been trafficked testified: “It is also important to point out here the ways in which the foster care system, inadvertently, objectifies the presence of youth for monetary purposes, and it also normalizes the idea to youth that other people are supposed to control their lives and circumstances. The foster care system, in its entirety, serves in the role of the parent so it is never clear to the youth who exactly is in control, or supposed to be in control . . . Due to the multiple roles and per-

¹²Committee on Ways and Means. *Efforts to Prevent and Address Child Sex Trafficking in Washington State*. Testimony of Mandy Urwiler. February 19, 2014. Found online at: http://waysandmeans.house.gov/uploadedfiles/mandy_urwiler_testimony_hr021914.pdf

sons in the foster care system, children and youth become accustomed to others (most of whom are strangers to them) dictating what will happen in their lives at home, in school and socially . . . This is conducive to the parallel process of traffickers/pimps/exploiters who seek to keep control of a youth's life.”¹³

The Committee believes it is important both for youth to be consulted in the development of their case plans, and that the programs and services that may benefit them are spelled out clearly.

As with the development of a case plan for the period while a child is in foster care, permanency planning is a critical concern, and one in which the Committee believes youth should be more involved. Thus, the Committee legislation requires State agencies to consult with older youth in the development of, and any revisions to, their permanency plan. Older youth should also know their rights while in foster care (and be able to understand those rights) so that they can make informed decisions regarding their futures.

TITLE III: IMPROVING DATA COLLECTION AND REPORTING ON CHILD SEX TRAFFICKING

SECTION 301. INCLUDING SEX TRAFFICKING DATA IN THE ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM

Present Law

HHS was required to establish, by regulation, a data collection system to provide for comprehensive national information with respect to children in foster care and those who are adopted, including their demographic status, characteristics of their foster care stay, and assistance received, among other things (Sec. 479(c)).

Pursuant to these requirements, HHS developed the Adoption and Foster Care Analysis and Reporting System (AFCARS), which, effective with FY1995, required States to submit individual case-level data on children in foster care and children adopted with child welfare agency involvement. Data must be reported for each child using a set of uniform data elements that are provided in regulations. The individual case level data are aggregated by HHS to determine, among other things, demographic characteristics of these children, their status in foster care (e.g., length of stay in care, type of placement setting), and the type of assistance they receive (45 C.F.R. 1355.40).

Explanation of Provision

The legislation requires HHS to revise the AFCARS regulation to require States to report the annual number of children in foster care who are identified as victims of sex trafficking (as defined in the TVPA) and who were victimized (1) before entering foster care, or (2) while in foster care.

The legislation also requires HHS, beginning in FY2016, to submit an annual report to Congress that contains the aggregate number of children in foster care who are identified as victims of sex trafficking (as defined in the TVPA), along with other information related to the identification of, and provision of services to, children

¹³ Committee on Ways and Means. Preventing Sex Trafficking of Youth in Foster Care. Testimony of Withelma “T” Ortiz Walker Pettigrew, October 23, 2013. Found online at: http://waysandmeans.house.gov/uploadedfiles/t_ortiz_walker_pettigrew_testimony_hr102313.pdf

who are identified as victims of sex trafficking before entering foster care or while in foster care.

Reason for Change

One of the most difficult issues in addressing sex trafficking of youth in foster care is determining the magnitude of the problem, where it is occurring, and which children are victims of this crime. The AFCARS system has been key to increasing our understanding of children in foster care, and data provided through this system has been used to inform child welfare policy and practice changes at the Federal, State, and local levels. By collecting data on victims of child sex trafficking through the AFCARS system, the Committee will be able to better understand the dynamics of this issue and develop policies in the future to better protect children in foster care.

SECTION 302. INFORMATION ON CHILDREN IN FOSTER CARE IN ANNUAL REPORTS USING AFCARS DATA; CONSULTATION

Present Law

HHS must annually submit to Congress a report on the performance of each State with regard to achieving specific child welfare outcomes (e.g. ensuring placement stability for children in foster care, finding children adoptive homes as appropriate). Additionally, HHS must examine in this report the reasons for variation in State performance and, when possible, suggest how States could improve their performance. HHS must also include in this annual report, State-by-State data on the number of children in foster care who are visited by their caseworkers on a monthly basis (Sec. 479A). This report is known as Child Welfare Outcomes report.

HHS was required to develop the child welfare outcome measures, which are now used for reporting data via the Child Welfare Outcomes report, in consultation with State governors, State legislatures, State and local public officials administering child welfare programs, and child welfare advocates (Section 479A). This consultation occurred in 1998.

States are required to regularly report certain data on children in foster care to HHS via the Adoption and Foster Care Analysis and Reporting System (AFCARS). Separately, via the National Youth in Transition Database (NYTD) they must report information on independent living services provided to youth in foster care or those who aged out of foster care, as well as certain outcomes for youth who age out of foster care (based on data systems developed by HHS in response to Sec. 479(c) and Section 477(f)).

Explanation of Provision

The legislation requires HHS to include in its annual Child Welfare Outcomes report (beginning with data for FY2016) State-by-State data on certain children in foster care who are placed in a child care institution or any other setting that is not a foster family home. This information about children in non-foster family home settings must include:

- The number of those children and their ages (with separate accounting for the number and ages of children with a

permanency plan of another planned permanent living arrangement);

- The length of placement in that setting (with separate accounting for children with a permanency plan of another planned permanent living arrangement);
- The type of child care institutions where children were placed (including, but not limited to, group homes, residential treatment, shelters, or other congregate care settings);
- The number of children in foster care residing in each such institution or non-foster family home;
- The number of clinically diagnosed special needs (if any) of these children; and
- The extent of any specialized education, treatment, counseling, or other services provided in the settings.

The legislation also requires HHS to include in this annual report (beginning with data for FY2016) State-by-State data on children in foster care who are pregnant or parenting.

In selecting other issues to be analyzed and included in this report, HHS must: (1) consult with States and with organizations interested in child welfare and take into account requests from Members of Congress; and (2) use data available to HHS, including data reported by States via AFCARS and NYTD.

Reason for Change

Evidence suggests that placing children in group homes may be detrimental to their wellbeing in some cases.¹⁴ As the Committee heard in a number of hearings, foster care group homes may also be targeted by individuals looking for vulnerable youth to exploit through sex trafficking. In addition, group home settings deny children in foster care the opportunity to experience a more normal childhood living in a traditional family setting. This legislation requires HHS to report information to Congress to better understand the type of group homes used by States, the number of children in such homes, and the length of time children spend in these homes. This information will help inform future policy regarding the appropriate role of such homes, and it will help the Committee better understand what parameters might be appropriate for limiting the use of group care other than in exceptional circumstances.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 4058.

The bill, H.R. 4058, the “Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act,” was ordered favorably reported, as amended, to the House of Representatives by a roll call vote of 33 yeas to 0 nays (with a quorum being present). The vote was as follows:

¹⁴Harden, Brenda Jones. *Safety and Stability for Foster Children: A Developmental Perspective*. Children, Families, and Foster Care. Volume 14 Number 1, Winter 2004. Page 38. Found online at: <http://futureofchildren.org/publications/journals/article/index.xml?journalid=40&articleid=133§ionid=874> and Ryan, Joseph P. et al. *Juvenile delinquency in child welfare: Investigating group home effects*. Children and Youth Services Review. Volume 30, Issue 9. September 2008. Found online at: <https://www.cwla.org/programs/juvenilejustice/grouphomeeffects.pdf>

VOTES OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 4058 “Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act.”

The bill, H.R. 4058, was ordered favorably reported as amended by a roll call vote of 33 yeas to 0 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X	.....	.....	Mr. Levin .....	.....	X	.....
Mr. Johnson	X	.....	.....	Mr. Rangel .....	.....	X	.....
Mr. Brady	X	.....	.....	Mr. McDermott .....	.....	X	.....
Mr. Ryan	X	.....	.....	Mr. Lewis .....	.....	X	.....
Mr. Nunes	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Tiberi	X	.....	.....	Mr. Becerra .....	.....	X	.....
Mr. Reichert	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Boustany	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Roskam	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Gerlach .....	.....	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. Price	X	.....	.....	Mr. Kind .....	.....	.....	.....
Mr. Buchanan	X	.....	.....	Mr. Pascrell .....	.....	.....	.....
Mr. Smith	X	.....	.....	Mr. Crowley .....	.....	X	.....
Mr. Schock	X	.....	.....	Ms. Schwartz .....	.....	.....	.....
Ms. Jenkins	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Paulsen	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Mr. Marchant	X	.....	.....		
Ms. Black	X	.....	.....		
Mr. Reed	X	.....	.....		
Mr. Young	X	.....	.....		
Mr. Kelly	X	.....	.....		
Mr. Griffin .....	.....	.....	.....	
Mr. Renacci	X	.....	.....		

VOTES ON AMENDMENTS

Representative Lloyd Doggett (D–TX) offered an amendment that would restore a provision from the bill as introduced that would ensure children who are discharged from foster care are provided certain documents, including a birth certificate. The amendment was later withdrawn, and no vote was taken.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 4058 as reported: The Committee agrees with the estimates prepared by the Congressional Budget Office (CBO), which are included below.

STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX
EXPENDITURES BUDGET AUTHORITY

The bill as reported is in compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives. Further, the bill involves no new or increased tax expenditures.

B. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 2, 2014.

Hon. DAVE CAMP,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4058, the Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Rafferty.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4058—Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act

Summary: H.R. 4058 would make several changes to the Title IV-E foster care program within the Department of Health and Human Services (HHS), including imposing new placement and reporting rules.

CBO estimates that enacting the bill would increase direct spending by \$3 million over the 2014–2024 period; therefore, pay-as-you-go procedures apply to the bill. Enacting H.R. 4058 would not affect revenues. Implementing the bill would not affect spending subject to appropriation.

H.R. 4058 would impose intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on state governments by increasing the stringency of conditions in their implementation of the foster care program. CBO estimates, however, that the cost of the mandates would not exceed the threshold established in UMRA for intergovernmental mandates (\$76 million in 2014, adjusted annually for inflation).

The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4058 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—													
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014– 2019	2014– 2024	
CHANGES IN DIRECT SPENDING														
Estimated Budget														
Authority	0	1	1	1	0	0	0	0	0	0	0	3	3	
Estimated Outlays	0	1	1	1	0	0	0	0	0	0	0	3	3	

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in 2014.

Data collection and reporting requirements

Sections 102 and 301 would require states to collect and include in their child-welfare information systems certain data about trafficking victims. Based on information from state child-welfare and information-technology agencies and from HHS about likely up-front programming and implementation costs and federal reimbursement rates, CBO estimates that enacting those two provisions would increase direct spending by \$3 million over the 2015–2017 period.

Planned permanent living arrangements for youth in foster care

Several provisions in section 202 would make changes to Title IV-E of the Social Security Act to encourage or require states to seek reunification with parents, adoption, or placement with a legal guardian as the planned permanent living arrangement for youth in foster care age 14 or older. Consequently, some youth could be placed in a living arrangement with a higher cost to the federal government (such as remaining in federally reimbursed foster care instead of being emancipated from foster care), while others could be placed in a lower-cost setting (such as a kinship guardianship instead of foster care). Based on information from several states and HHS, CBO estimates that the effects of those provisions in section 202 would roughly offset each other and thus would not have a significant net effect on direct spending.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4058 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 29, 2014

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014– 2019	2014– 2024
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	1	1	1	0	0	0	0	0	0	0	3	3

Intergovernmental and Private-Sector Impact: For large entitlement grant programs like foster care, UMRA defines an increase in the stringency of conditions as an intergovernmental mandate if the affected governments lack authority to offset those costs while continuing to provide required services. The bill would require states to ensure that foster care providers comply with new standards that establish reasonable and prudent parenting practices, and it would require states to collect and report additional information to federal authorities.

Since these requirements would be additional conditions for receiving federal assistance from a large entitlement program and since states have limited flexibility to amend their responsibilities under the foster care program to offset the additional costs, the requirements would be intergovernmental mandates. Information gathered by CBO indicates either that states already comply with

similar requirements or that the costs of additional requirements would be small. Consequently, CBO estimates the costs of the mandates would not exceed the intergovernmental threshold established in UMRA (\$76 million in 2014, adjusted annually for inflation).

H.R. 4058 contains no private-sector mandates as defined in UMRA.

Previous CBO Estimate: On January 27, 2013, CBO transmitted a cost estimate for S. 1870, the Supporting At-Risk Children Act, as reported by the Senate Committee on Finance on December 19, 2013. That bill included a second provision, not contained in H.R. 4058, regarding data collection and reporting requirements. CBO estimated the cost of the data collection and reporting requirements in S. 1870 would be \$5 million over the 2014–2024 period. S. 1870 also included several other provisions that are not included in H.R. 4058 that would affect direct spending.

Estimate Prepared by: Federal costs: David Rafferty; Impact on state, local, and tribal governments: J'neil L. Blanco; Impact on the private sector: Chung Kim.

Estimate Approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE OF REPRESENTATIVES

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee concluded that it was appropriate and timely to enact the sections included in the bill, as reported.

As noted above, recent reports indicate that victims of child sex trafficking often have connections to the foster care system. As such, the Committee believes State child welfare agencies can do more to identify instances of sex trafficking and that they can also take steps to prevent it from happening. Two hearings held by the Ways and Means Human Resources Subcommittee have provided the Committee with information on how sex trafficking might be prevented and addressed in the child welfare system, and the Committee believes this legislation can both help States better track incidents of sex trafficking as well as develop plans to keep additional children from becoming victims.

In addition, as members of the Human Resources Subcommittee learned in a hearing on May 9, 2013, some foster care policies make it difficult for youth in foster care to participate in activities that help them connect with their families, friends, and others in their communities. Both California and Florida have taken steps to empower youth in foster care so they can participate in age-appropriate activities and experience a more normal childhood. The Committee believes requiring States to develop a policy entrusting foster parents with more day-to-day decision-making authority will help youth in foster care better prepare for adulthood and reduce their vulnerability to sex trafficking and other negative outcomes.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes new funding compared with current law. However, according to the Congressional Budget Office, H.R. 4058 increases foster care baseline spending by \$3 million over 10 years. This increase in spending is estimated to occur as States implement new information technology and other procedures for collecting and reporting data on victims of sex trafficking. The purpose of this spending is to gain a better understanding of the number and nature of youth victimized by sex trafficking, specifically by implementing sections 102 and 301 of the bill, which require States to collect and report certain information about victims of sex trafficking.

C. DUPLICATION OF FEDERAL PROGRAMS

No provision of the legislation establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

D. DISCLOSURE OF DIRECTED RULE MAKINGS

H.R. 4058 directs to be completed one rule within the meaning of 5 U.S.C. 551. Specifically, the legislation directs HHS to promulgate regulations to implement the amendments made by section 102 of the bill requiring States to take certain actions regarding youth who are victims of sex trafficking.

E. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4).

The bill does not impose a Federal mandate on the private sector. The bill would impose intergovernmental mandates on State governments by increasing the stringency of conditions in their implementation of the foster care program. CBO estimates, however, that the cost of the mandates would not exceed the threshold established in UMRA for intergovernmental mandates (\$76 million in 2014, adjusted annually for inflation).

F. APPLICABILITY OF HOUSE RULE XXI 5(b)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the sections of the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

G. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * *

**TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO
NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WEL-
FARE SERVICES**

* * * * *

PART B—CHILD AND FAMILY SERVICES

**Subpart 1—Stephanie Tubbs Jones Child Welfare
Services Program**

* * * * *

STATE PLANS FOR CHILD WELFARE SERVICES

SEC. 422. (a) * * *

(b) Each plan for child welfare services under this subpart shall—

(1) * * *

* * * * *

(8) provide assurances that the State—

(A) is operating, to the satisfaction of the Secretary—

(i) * * *

(ii) a case review system (as defined in section 475(5) *and in accordance with the requirements of section 475A*) for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children—

(I) * * *

(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement, *subject to the requirements of sections 475(5)(C)*

and 475A(a), which may include a residential educational program; and

* * * * *

PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

* * * * *

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) * * *

* * * * *

(9) provides that the State agency will—

(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; **[and]**

(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have; *and*

(C) *not later than—*

(i) 1 year after the date of the enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with organizations with experience in dealing with at-risk youth, policies and procedures for identifying and screening (including relevant training for caseworkers), and for determining appropriate State action and services with respect to—

(I) any child over whom the State agency has responsibility for placement, care, or supervision (including children for whom a State child welfare agency has an open case file but who have not been removed from the home and youth who are not in foster care but are receiving services under section 477 of this Act) who the State has reasonable cause to believe—

(aa) is a victim of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(10))) or a severe form of trafficking in persons described in section 103(9)(A) of such Act (22 U.S.C. 7102(9)(A)); or

(bb) is at risk of being a victim of either kind of trafficking; and

(II) at the option of the State, any individual, without regard to whether the individual is or was in foster care under the responsibility of the State, who has not attained 26 years of age; and

(ii) 2 years after such date of enactment, demonstrate to the Secretary that the State agency is implementing, in consultation with the child protective services agency or unit for the State, the policies and procedures referred to in clause (i).

[(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care;]

(10) provides—

(A) for the establishment or designation of a State authority or authorities that shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for the institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which shall permit use of the reasonable and prudent parenting standard;

(B) that the standards established pursuant to subparagraph (A) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B and shall require, as a condition of any contract entered into by the State agency and a child care institution, the presence on-site of at least 1 official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as prospective foster parents are provided the training pursuant to paragraph (24);

(C) that the standards established pursuant to subparagraph (A) shall include policies related to the liability of foster parents and private entities under contract by the State involving the application of the reasonable and prudent parent standard, to ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard; and

(D) that a waiver of any standards established pursuant to subparagraph (A) may be made only on a case-by-case basis for nonsafety standards (as determined by the State) in relative foster family homes for specific children in care;

* * * * *

(16) provides for the development of a case plan (as defined in section 475(1) *and in accordance with the requirements of section 475A*) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in [section 475(5)(B)] *sections 475(5) and 475A* with respect to each such child;

* * * * *

(24) [include] *includes* a certification that, before a child in foster care under the responsibility of the State is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, [and that such preparation] *that the preparation* will be continued, as necessary, after the placement of the child, *and that the preparation shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities;*

* * * * *

(32) provides that the State will negotiate in good faith with any Indian tribe, tribal organization or tribal consortium in the State that requests to develop an agreement with the State to administer all or part of the program under this part on behalf of Indian children who are under the authority of the tribe, organization, or consortium, including foster care maintenance payments on behalf of children who are placed in State or tribally licensed foster family homes, adoption assistance payments, and, if the State has elected to provide such payments, kinship guardianship assistance payments under section 473(d), and tribal access to resources for administration, training, and data collection under this part; [and]

(33) provides that the State will inform any individual who is adopting, or whom the State is made aware is considering adopting, a child who is in foster care under the responsibility of the State of the potential eligibility of the individual for a Federal tax credit under section 23 of the Internal Revenue Code of 1986[.];

(34) provides that, for each child over whom the State agency has responsibility for placement, care, or supervision (including any child for whom a State child welfare agency has an open case file but who has not been removed from the home, and any youth who is not in foster care but is receiving services under section 477), the State agency shall—

(A) not later than 2 years after the date of the enactment of this paragraph, identify and document appropriately in agency records each child who is identified as being a victim of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000) or as being a victim of severe forms of trafficking in persons described in section 103(9)(A) of such Act, as such a victim; and

(B) report immediately, and in no case later than 24 hours after receiving—

(i) information on children who have been identified as being victims of sex trafficking (as defined in subparagraph (A) of this paragraph) to the law enforcement authorities; and

(ii) information on missing or abducted children to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code, and to the National Center for Missing and Exploited Children;

(35) not later than 2 years after the date of the enactment of this paragraph, contains a regularly updated description, made available to the public on the Internet website of the State agency, of the specific measures taken by the State agency to protect and provide services to children who are victims of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000), or victims of severe forms of trafficking in persons described in section 103(9)(A) of such Act, including efforts to coordinate with State and local law enforcement, schools, juvenile justice agencies, and social service agencies such as runaway and homeless youth shelters and transitional and other supportive housing providers to serve that population; and

(36) provides that, not later than 1 year after the date of the enactment of this paragraph, the State shall develop and implement specific protocols for—

(A) expeditiously locating any child missing from foster care;

(B) determining the primary factors that contributed to the child's running away or otherwise being absent from care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements;

(C) determining the child's experiences while absent from care, including screening the child to determine if he or she is a possible victim of sex trafficking (as defined in paragraph (9)(C)); and

(D) reporting such related information as required by the Secretary.

* * * * *

DEFINITIONS

SEC. 475. As used in this part or part B of this title:

(1) The term “case plan” means a written document which *meets the requirements of section 475A and includes at least the following:*

(A) * * *

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan. *With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child’s case planning team may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.*

* * * * *

(D) **【Where appropriate, for a child age 16】** *For a child who has attained 14 years of age or over, a written description of the programs and services which will help such child prepare for the transition from foster care to 【independent living】 a successful adulthood.*

* * * * *

(5) The term “case review system” means a procedure for assuring that—

(A) * * *

* * * * *

(C) with respect to each such child, (i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent,

placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or *only in the case of a child who has attained 16 years of age* (in cases where the State agency has documented to the State court a compelling reason for determining, *as of the date of the hearing*, that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, *subject to section 475A(a)*, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to **[independent living]** *a successful adulthood*; (ii) procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; **[and]** (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to **[independent living]** *a successful adulthood*, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; *and (iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;*

* * * * *

(I) each child in foster care under the responsibility of the State who has attained **[16]** 14 years of age receives without cost a copy of any consumer report (as defined in section 603(d) of the Fair Credit Reporting Act) pertaining to the child each year until the child is discharged from care, and receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report.

* * * * *

(9)(A) *The term “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extra-curricular, enrichment, cultural, and social activities.*

(B) *For purposes of subparagraph (A), the term “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.*

(10) *The term “age or developmentally-appropriate” means—*

(A) *activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and*

(B) *in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.*

SEC. 475A. ADDITIONAL CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

(a) **REQUIREMENTS FOR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT.**—*In the case of any child for whom another planned permanent living arrangement is the permanency plan for the child, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:*

(1) **DOCUMENTATION OF INTENSIVE, ONGOING, UNSUCCESSFUL EFFORTS FOR FAMILY PLACEMENT.**—*At each permanency hearing held with respect to the child, the State agency documents the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for children in the child welfare system.*

(2) **REDETERMINATION OF APPROPRIATENESS OF PLACEMENT AT EACH PERMANENCY HEARING.**—*The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:*

(A) *Ask the child about the desired permanency outcome for the child.*

(B) *Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to—*

(i) *return home;*

- (ii) be placed for adoption;
- (iii) be placed with a legal guardian; or
- (iv) be placed with a fit and willing relative.

(3) *DEMONSTRATION OF SUPPORT FOR ENGAGING IN AGE OR DEVELOPMENTALLY-APPROPRIATE ACTIVITIES AND SOCIAL EVENTS.*—At each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard.

(b) *LIST OF RIGHTS.*—The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include a document that describes the rights of the child with respect to education, health, visitation, and court participation, and to staying safe and avoiding exploitation, and a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

* * * * *

COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

SEC. 479. (a) * * *

* * * * *

(c) Any data collection system developed and implemented under this section shall—

(1) * * *

* * * * *

(3) provide comprehensive national information with respect to—

(A) * * *

* * * * *

(C) the number and characteristics of—

(i) * * *

* * * * *

(iii) children placed in foster care outside the State which has placement and care responsibility, [and]

* * * * *

(E) the annual number of children in foster care who are identified as victims of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(10))) or a severe form of trafficking in persons described in section 103(9)(A) of such Act—

(i) who were such victims before entering foster care; and

(ii) who were such victims while in foster care; and

* * * * *

SEC. 479A. ANNUAL REPORT.

【The Secretary】 (a) *IN GENERAL.*—The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall—

(1) * * *

* * * * *

(5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved; **[and]**

(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

(A) * * *

* * * * *

(C) the percentage of the visits that occurred in the residence of the child**[.];**

(7) *include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including—*

(A) the number of children in the placements and their ages, including separately, the number and ages of children who have a permanency plan of another planned permanent living arrangement;

(B) the duration of the placement in the settings (including for children who have a permanency plan of another planned permanent living arrangement);

(C) the types of child care institutions used (including group homes, residential treatment, shelters, or other congregate care settings);

(D) with respect to each child care institution or other setting that is not a foster family home, the number of children in foster care residing in each such institution or non-foster family home;

(E) any clinically diagnosed special need of such children; and

(F) the extent of any specialized education, treatment, counseling, or other services provided in the settings; and

(8) *include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on children in foster care who are pregnant or parenting.*

(b) **CONSULTATION ON OTHER ISSUES.**—*The Secretary shall consult with States and organizations with an interest in child welfare, including organizations that provide adoption and foster care services, and shall take into account requests from Members of Congress, in selecting other issues to be analyzed and reported on under this section using data available to the Secretary, including data reported by States through the Adoption and Foster Care Analysis and Reporting System and to the National Youth in Transition Database.*

* * * * *

ADDITIONAL VIEWS

We support this bipartisan legislation to encourage the child welfare system to be more proactive in detecting, preventing and responding to the sex trafficking of children in foster care. Abuse, neglect and a sense of isolation make children coming into the foster care system particularly vulnerable to being victims of trafficking, and we therefore strongly support provisions in the bill to require more screening of these children for trafficking, to require more reporting of the incidence of trafficking for foster children, and to better respond to children who run away from a foster care placement. We also support provisions in the legislation designed to improve the quality of children's lives while in foster care, including helping them participate in activities that other children often pursue, such as after-school sports and extra-curricular activities.

However, we are disappointed that the substitute amendment to H.R. 4058 that was adopted by the Committee eliminates an important provision from the bill as introduced that would ensure that older children who are discharged from foster care are provided with important documents upon their release, including a copy of their birth certificate, their Social Security card, and their medical records. The children who this provision would assist are those who truly have the least in our society. Many have little sense of stability or belonging to a family, school, or community. Helping these youth when they "age out" of the system, often at the age of 18, should be a priority for this Committee. While this provision has bipartisan support, it has apparently been removed solely because of its estimated cost of a little more than \$1 million annually for administration. This provision was removed at the same meeting at which the Majority approved \$310 billion in business tax cuts, none of which were paid for. We support paying for the restoration of this modest provision providing foster youth with critical documents upon their release from care before the legislation is considered by the full House.

Sincerely,

SANDER LEVIN.
JOHN LEWIS.
XAVIER BECERRA.
MIKE THOMPSON.
EARL BLUMENAUER.
ALLYSON SCHWARTZ.
LINDA T. SÁNCHEZ.
CHARLES B. RANGEL.
RICHARD E. NEAL.
LLOYD DOGGETT.
JOHN B. LARSON.
BILL PASCRELL, Jr.
DANNY K. DAVIS.

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