

FAMILY FIRST PREVENTION SERVICES ACT OF 2016

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JUNE 21, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BRADY of Texas, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5456]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5456) to amend parts B and E of title IV of the Social Security Act to invest in funding prevention and family services to help keep children safe and supported at home, to ensure that children in foster care are placed in the least restrictive, most family-like, and appropriate settings, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Family First Prevention Services Act of 2016”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.

**TITLE I—INVESTING IN PREVENTION AND FAMILY SERVICES**

Sec. 101. Purpose.

**Subtitle A—Prevention Activities Under Title IV–E**

Sec. 111. Foster care prevention services and programs.  
Sec. 112. Foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse.  
Sec. 113. Title IV–E payments for evidence-based kinship navigator programs.

**Subtitle B—Enhanced Support Under Title IV–B**

Sec. 121. Elimination of time limit for family reunification services while in foster care and permitting time-limited family reunification services when a child returns home from foster care.  
Sec. 122. Reducing bureaucracy and unnecessary delays when placing children in homes across State lines.  
Sec. 123. Enhancements to grants to improve well-being of families affected by substance abuse.

**Subtitle C—Miscellaneous**

Sec. 131. Reviewing and improving licensing standards for placement in a relative foster family home.  
Sec. 132. Development of a statewide plan to prevent child abuse and neglect fatalities.  
Sec. 133. Modernizing the title and purpose of title IV–E.  
Sec. 134. Effective dates.

**TITLE II—ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME**

Sec. 201. Limitation on Federal financial participation for placements that are not in foster family homes.  
Sec. 202. Assessment and documentation of the need for placement in a qualified residential treatment program.  
Sec. 203. Protocols to prevent inappropriate diagnoses.  
Sec. 204. Additional data and reports regarding children placed in a setting that is not a foster family home.  
Sec. 205. Effective dates; application to waivers.

**TITLE III—CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES**

Sec. 301. Supporting and retaining foster families for children.  
Sec. 302. Extension of child and family services programs.  
Sec. 303. Improvements to the John H. Chafee Foster Care Independence Program and related provisions.

**TITLE IV—CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP**

Sec. 401. Reauthorizing adoption and legal guardianship incentive programs.

**TITLE V—TECHNICAL CORRECTIONS**

Sec. 501. Technical corrections to data exchange standards to improve program coordination.  
Sec. 502. Technical corrections to State requirement to address the developmental needs of young children.

**TITLE VI—ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASE IN ADOPTION ASSISTANCE**

Sec. 601. Delay of adoption assistance phase-in.  
Sec. 602. GAO study and report on State reinvestment of savings resulting from increase in adoption assistance.

## **TITLE I—INVESTING IN PREVENTION AND FAMILY SERVICES**

**SEC. 101. PURPOSE.**

The purpose of this title is to enable States to use Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.

### **Subtitle A—Prevention Activities Under Title IV–E**

**SEC. 111. FOSTER CARE PREVENTION SERVICES AND PROGRAMS.**

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

(1) in subsection (a)(1), by striking “and” and all that follows through the semicolon and inserting “, adoption assistance in accordance with section 473, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are

pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;” and

(2) by adding at the end the following:

“(e) PREVENTION AND FAMILY SERVICES AND PROGRAMS.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary may make a payment to a State for providing the following services or programs for a child described in paragraph (2) and the parents or kin caregivers of the child when the need of the child, such a parent, or such a caregiver for the services or programs are directly related to the safety, permanence, or well-being of the child or to preventing the child from entering foster care:

“(A) MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES.—Mental health and substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child.

“(B) IN-HOME PARENT SKILL-BASED PROGRAMS.—In-home parent skill-based programs for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child and that include parenting skills training, parent education, and individual and family counseling.

“(2) CHILD DESCRIBED.—For purposes of paragraph (1), a child described in this paragraph is the following:

“(A) A child who is a candidate for foster care (as defined in section 475(13)) but can remain safely at home or in a kinship placement with receipt of services or programs specified in paragraph (1).

“(B) A child in foster care who is a pregnant or parenting foster youth.

“(3) DATE DESCRIBED.—For purposes of paragraph (1), the dates described in this paragraph are the following:

“(A) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a child who is a candidate for foster care (as defined in section 475(13)).

“(B) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a pregnant or parenting foster youth in need of services or programs specified in paragraph (1).

“(4) REQUIREMENTS RELATED TO PROVIDING SERVICES AND PROGRAMS.—Services and programs specified in paragraph (1) may be provided under this subsection only if specified in advance in the child’s prevention plan described in subparagraph (A) and the requirements in subparagraphs (B) through (E) are met:

“(A) PREVENTION PLAN.—The State maintains a written prevention plan for the child that meets the following requirements (as applicable):

“(i) CANDIDATES.—In the case of a child who is a candidate for foster care described in paragraph (2)(A), the prevention plan shall—

“(I) identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;

“(II) list the services or programs to be provided to or on behalf of the child to ensure the success of that prevention strategy; and

“(III) comply with such other requirements as the Secretary shall establish.

“(ii) PREGNANT OR PARENTING FOSTER YOUTH.—In the case of a child who is a pregnant or parenting foster youth described in paragraph (2)(B), the prevention plan shall—

“(I) be included in the child’s case plan required under section 475(1);

“(II) list the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent;

“(III) describe the foster care prevention strategy for any child born to the youth; and

“(IV) comply with such other requirements as the Secretary shall establish.

“(B) TRAUMA-INFORMED.—The services or programs to be provided to or on behalf of a child are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recog-

nized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.

“(C) ONLY SERVICES AND PROGRAMS PROVIDED IN ACCORDANCE WITH PROMISING, SUPPORTED, OR WELL-SUPPORTED PRACTICES PERMITTED.—

“(i) IN GENERAL.—Only State expenditures for services or programs specified in subparagraph (A) or (B) of paragraph (1) that are provided in accordance with practices that meet the requirements specified in clause (ii) of this subparagraph and that meet the requirements specified in clause (iii), (iv), or (v), respectively, for being a promising, supported, or well-supported practice, shall be eligible for a Federal matching payment under section 474(a)(6)(A).

“(ii) GENERAL PRACTICE REQUIREMENTS.—The general practice requirements specified in this clause are the following:

“(I) The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.

“(II) There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.

“(III) If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.

“(IV) Outcome measures are reliable and valid, and are administered consistently and accurately across all those receiving the practice.

“(V) There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent.

“(iii) PROMISING PRACTICE.—A practice shall be considered to be a ‘promising practice’ if the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 1 study that—

“(I) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and

“(II) utilized some form of control (such as an untreated group, a placebo group, or a wait list study).

“(iv) SUPPORTED PRACTICE.—A practice shall be considered to be a ‘supported practice’ if—

“(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 1 study that—

“(aa) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

“(bb) was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design); and

“(cc) was carried out in a usual care or practice setting; and

“(II) the study described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of the treatment.

“(v) WELL-SUPPORTED PRACTICE.—A practice shall be considered to be a ‘well-supported practice’ if—

“(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 2 studies that—

“(aa) were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

“(bb) were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design); and

“(cc) were carried out in a usual care or practice setting; and

“(II) at least 1 of the studies described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment.

“(D) GUIDANCE ON PRACTICES CRITERIA AND PRE-APPROVED SERVICES AND PROGRAMS.—

“(i) IN GENERAL.—Not later than October 1, 2018, the Secretary shall issue guidance to States regarding the practices criteria required for services or programs to satisfy the requirements of subparagraph (C). The guidance shall include a pre-approved list of services and programs that satisfy the requirements.

“(ii) UPDATES.—The Secretary shall issue updates to the guidance required by clause (i) as often as the Secretary determines necessary.

“(E) OUTCOME ASSESSMENT AND REPORTING.—The State shall collect and report to the Secretary the following information with respect to each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided during a 12-month period beginning on the date the child is determined by the State to be a child described in paragraph (2):

“(i) The specific services or programs provided and the total expenditures for each of the services or programs.

“(ii) The duration of the services or programs provided.

“(iii) In the case of a child described in paragraph (2)(A), the child’s placement status at the beginning, and at the end, of the 1-year period, respectively, and whether the child entered foster care within 2 years after being determined a candidate for foster care.

“(5) STATE PLAN COMPONENT.—

“(A) IN GENERAL.—A State electing to provide services or programs specified in paragraph (1) shall submit as part of the State plan required by subsection (a) a prevention services and programs plan component that meets the requirements of subparagraph (B).

“(B) PREVENTION SERVICES AND PROGRAMS PLAN COMPONENT.—In order to meet the requirements of this subparagraph, a prevention services and programs plan component, with respect to each 5-year period for which the plan component is in operation in the State, shall include the following:

“(i) How providing services and programs specified in paragraph (1) is expected to improve specific outcomes for children and families.

“(ii) How the State will monitor and oversee the safety of children who receive services and programs specified in paragraph (1), including through periodic risk assessments throughout the period in which the services and programs are provided on behalf of a child and reexamination of the prevention plan maintained for the child under paragraph (4) for the provision of the services or programs if the State determines the risk of the child entering foster care remains high despite the provision of the services or programs.

“(iii) With respect to the services and programs specified in subparagraphs (A) and (B) of paragraph (1), information on the specific promising, supported, or well-supported practices the State plans to use to provide the services or programs, including a description of—

“(I) the services or programs and whether the practices used are promising, supported, or well-supported;

“(II) how the State plans to implement the services or programs, including how implementation of the services or programs will be continuously monitored to ensure fidelity to the practice model and to determine outcomes achieved and how information learned from the monitoring will be used to refine and improve practices;

“(III) how the State selected the services or programs;

“(IV) the target population for the services or programs; and

“(V) how each service or program provided will be evaluated through a well-designed and rigorous process, which may consist of an ongoing, cross-site evaluation approved by the Secretary.

“(iv) A description of the consultation that the State agencies responsible for administering the State plans under this part and part B engage in with other State agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with ex-

perience in administering child and family services, including community-based organizations, in order to foster a continuum of care for children described in paragraph (2) and their parents or kin caregivers.

“(v) A description of how the State shall assess children and their parents or kin caregivers to determine eligibility for services or programs specified in paragraph (1).

“(vi) A description of how the services or programs specified in paragraph (1) that are provided for or on behalf of a child and the parents or kin caregivers of the child will be coordinated with other child and family services provided to the child and the parents or kin caregivers of the child under the State plan under part B.

“(vii) Descriptions of steps the State is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services, including—

“(I) ensuring that staff is qualified to provide services or programs that are consistent with the promising, supported, or well-supported practice models selected; and

“(II) developing appropriate prevention plans, and conducting the risk assessments required under clause (iii).

“(viii) A description of how the State will provide training and support for caseworkers in assessing what children and their families need, connecting to the families served, knowing how to access and deliver the needed trauma-informed and evidence-based services, and overseeing and evaluating the continuing appropriateness of the services.

“(ix) A description of how caseload size and type for prevention caseworkers will be determined, managed, and overseen.

“(x) An assurance that the State will report to the Secretary such information and data as the Secretary may require with respect to the provision of services and programs specified in paragraph (1), including information and data necessary to determine the performance measures for the State under paragraph (6) and compliance with paragraph (7).

“(C) REIMBURSEMENT FOR SERVICES UNDER THE PREVENTION PLAN COMPONENT.—

“(i) LIMITATION.—Except as provided in subclause (ii), a State may not receive a Federal payment under this part for a given promising, supported, or well-supported practice unless (in accordance with subparagraph (B)(iii)(V)) the plan includes a well-designed and rigorous evaluation strategy for that practice.

“(ii) WAIVER OF LIMITATION.—The Secretary may waive the requirement for a well-designed and rigorous evaluation of any well-supported practice if the Secretary deems the evidence of the effectiveness of the practice to be compelling and the State meets the continuous quality improvement requirements included in subparagraph (B)(iii)(II) with regard to the practice.

“(6) PREVENTION SERVICES MEASURES.—

“(A) ESTABLISHMENT; ANNUAL UPDATES.—Beginning with fiscal year 2021, and annually thereafter, the Secretary shall establish the following prevention services measures based on information and data reported by States that elect to provide services and programs specified in paragraph (1):

“(i) PERCENTAGE OF CANDIDATES FOR FOSTER CARE WHO DO NOT ENTER FOSTER CARE.—The percentage of candidates for foster care for whom, or on whose behalf, the services or programs are provided who do not enter foster care, including those placed with a kin caregiver outside of foster care, during the 12-month period in which the services or programs are provided and through the end of the succeeding 12-month-period.

“(ii) PER-CHILD SPENDING.—The total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skill-based programs, respectively, for, or on behalf of, each child described in paragraph (2).

“(B) DATA.—The Secretary shall establish and annually update the prevention services measures—

“(i) based on the median State values of the information reported under each clause of subparagraph (A) for the 3 then most recent years; and

“(ii) taking into account State differences in the price levels of consumption goods and services using the most recent regional price parities published by the Bureau of Economic Analysis of the Department

of Commerce or such other data as the Secretary determines appropriate.

“(C) PUBLICATION OF STATE PREVENTION SERVICES MEASURES.—The Secretary shall annually make available to the public the prevention services measures of each State.

“(7) MAINTENANCE OF EFFORT FOR STATE FOSTER CARE PREVENTION EXPENDITURES.—

“(A) IN GENERAL.—If a State elects to provide services and programs specified in paragraph (1) for a fiscal year, the State foster care prevention expenditures for the fiscal year shall not be less than the amount of the expenditures for fiscal year 2014.

“(B) STATE FOSTER CARE PREVENTION EXPENDITURES.—The term ‘State foster care prevention expenditures’ means the following:

“(i) TANF; IV-B; SSBG.—State expenditures for foster care prevention services and activities under the State program funded under part A (including from amounts made available by the Federal Government), under the State plan developed under part B (including any such amounts), or under the Social Services Block Grant Programs under subtitle A of title XX (including any such amounts).

“(ii) OTHER STATE PROGRAMS.—State expenditures for foster care prevention services and activities under any State program that is not described in clause (i) (other than any State expenditures for foster care prevention services and activities under the State program under this part (including under a waiver of the program)).

“(C) STATE EXPENDITURES.—The term ‘State expenditures’ means all State or local funds that are expended by the State or a local agency including State or local funds that are matched or reimbursed by the Federal Government and State or local funds that are not matched or reimbursed by the Federal Government.

“(D) DETERMINATION OF PREVENTION SERVICES AND ACTIVITIES.—The Secretary shall require each State that elects to provide services and programs specified in paragraph (1) to report the expenditures specified in subparagraph (B) for fiscal year 2014 and for such fiscal years thereafter as are necessary to determine whether the State is complying with the maintenance of effort requirement in subparagraph (A). The Secretary shall specify the specific services and activities under each program referred to in subparagraph (B) that are ‘prevention services and activities’ for purposes of the reports.

“(8) PROHIBITION AGAINST USE OF STATE FOSTER CARE PREVENTION EXPENDITURES AND FEDERAL IV-E PREVENTION FUNDS FOR MATCHING OR EXPENDITURE REQUIREMENT.—A State that elects to provide services and programs specified in paragraph (1) shall not use any State foster care prevention expenditures for a fiscal year for the State share of expenditures under section 474(a)(6) for a fiscal year.

“(9) ADMINISTRATIVE COSTS.—Expenditures described in section 474(a)(6)(B)—“(A) shall not be eligible for payment under subparagraph (A), (B), or (E) of section 474(a)(3); and

“(B) shall be eligible for payment under section 474(a)(6)(B) without regard to whether the expenditures are incurred on behalf of a child who is, or is potentially, eligible for foster care maintenance payments under this part.

“(10) APPLICATION.—The provision of services or programs under this subsection to or on behalf of a child described in paragraph (2) shall not be considered to be receipt of aid or assistance under the State plan under this part for purposes of eligibility for any other program established under this Act.”.

(b) DEFINITION.—Section 475 of such Act (42 U.S.C. 675) is amended by adding at the end the following:

“(13) The term ‘child who is a candidate for foster care’ means, a child who is identified in a prevention plan under section 471(e)(4)(A) as being at imminent risk of entering foster care (without regard to whether the child would be eligible for foster care maintenance payments under section 472 or is or would be eligible for adoption assistance or kinship guardianship assistance payments under section 473) but who can remain safely in the child’s home or in a kinship placement as long as services or programs specified in section 471(e)(1) that are necessary to prevent the entry of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.”.

(c) PAYMENTS UNDER TITLE IV-E.—Section 474(a) of such Act (42 U.S.C. 674(a)) is amended—



(1) in paragraph (5), by striking the period at the end and inserting “; plus”; and

(2) by adding at the end the following:

“(6) subject to section 471(e)—

“(A) for each quarter—

“(i) subject to clause (ii)—

“(I) beginning after September 30, 2019, and before October 1, 2025, an amount equal to 50 percent of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C); and

“(II) beginning after September 30, 2025, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C) (or, with respect to the payments made during the quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the ‘tribal FMAP’) if the Indian tribe, tribal organization, or tribal consortium made the payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); except that

“(ii) not less than 50 percent of the total amount payable to a State under clause (i) for a fiscal year shall be for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with well-supported practices; plus

“(B) for each quarter specified in subparagraph (A), an amount equal to the sum of the following proportions of the total amount expended during the quarter:

“(i) 50 percent of so much of the expenditures as are found necessary by the Secretary for the proper and efficient administration of the State plan for the provision of services or programs specified in section 471(e)(1), including expenditures for activities approved by the Secretary that promote the development of necessary processes and procedures to establish and implement the provision of the services and programs for individuals who are eligible for the services and programs and expenditures attributable to data collection and reporting; and

“(ii) 50 percent of so much of the expenditures with respect to the provision of services and programs specified in section 471(e)(1) as are for training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision and of the members of the staff of State-licensed or State-approved child welfare agencies providing services to children described in section 471(e)(2) and their parents or kin caregivers, including on how to determine who are individuals eligible for the services or programs, how to identify and provide appropriate services and programs, and how to oversee and evaluate the ongoing appropriateness of the services and programs.”.

(d) TECHNICAL ASSISTANCE AND BEST PRACTICES, CLEARINGHOUSE, AND DATA COLLECTION AND EVALUATIONS.—Section 476 of such Act (42 U.S.C. 676) is amended by adding at the end the following:

“(d) TECHNICAL ASSISTANCE AND BEST PRACTICES, CLEARINGHOUSE, DATA COLLECTION, AND EVALUATIONS RELATING TO PREVENTION SERVICES AND PROGRAMS.—

“(1) TECHNICAL ASSISTANCE AND BEST PRACTICES.—The Secretary shall provide to States and, as applicable, to Indian tribes, tribal organizations, and tribal consortia, technical assistance regarding the provision of services and programs described in section 471(e)(1) and shall disseminate best practices with respect to the provision of the services and programs, including how to plan and

implement a well-designed and rigorous evaluation of a promising, supported, or well-supported practice.

“(2) CLEARINGHOUSE OF PROMISING, SUPPORTED, AND WELL-SUPPORTED PRACTICES.—The Secretary shall, directly or through grants, contracts, or interagency agreements, evaluate research on the practices specified in clauses (iii), (iv), and (v), respectively, of section 471(e)(4)(C), and programs that meet the requirements described in section 427(a)(1), including culturally specific, or location- or population-based adaptations of the practices, to identify and establish a public clearinghouse of the practices that satisfy each category described by such clauses. In addition, the clearinghouse shall include information on the specific outcomes associated with each practice, including whether the practice has been shown to prevent child abuse and neglect and reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.

“(3) DATA COLLECTION AND EVALUATIONS.—The Secretary, directly or through grants, contracts, or interagency agreements, may collect data and conduct evaluations with respect to the provision of services and programs described in section 471(e)(1) for purposes of assessing the extent to which the provision of the services and programs—

“(A) reduces the likelihood of foster care placement;

“(B) increases use of kinship care arrangements; or

“(C) improves child well-being.

“(4) REPORTS TO CONGRESS.—

“(A) IN GENERAL.—The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives periodic reports based on the provision of services and programs described in section 471(e)(1) and the activities carried out under this subsection.

“(B) PUBLIC AVAILABILITY.—The Secretary shall make the reports to Congress submitted under this paragraph publicly available.

“(5) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to the Secretary \$1,000,000 for fiscal year 2016 and each fiscal year thereafter to carry out this subsection.”.

(e) APPLICATION TO PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—

(1) IN GENERAL.—Section 479B of such Act (42 U.S.C. 679c) is amended—

(A) in subsection (c)(1)—

(i) in subparagraph (C)(i)—

(I) in subclause (II), by striking “and” after the semicolon;

(II) in subclause (III), by striking the period at the end and inserting “; and”; and

(III) by adding at the end the following:

“(IV) at the option of the tribe, organization, or consortium, services and programs specified in section 471(e)(1) to children described in section 471(e)(2) and their parents or kin caregivers, in accordance with section 471(e) and subparagraph (E).”; and

(ii) by adding at the end the following:

“(E) PREVENTION SERVICES AND PROGRAMS FOR CHILDREN AND THEIR PARENTS AND KIN CAREGIVERS.—

“(i) IN GENERAL.—In the case of a tribe, organization, or consortium that elects to provide services and programs specified in section 471(e)(1) to children described in section 471(e)(2) and their parents or kin caregivers under the plan, the Secretary shall specify the requirements applicable to the provision of the services and programs. The requirements shall, to the greatest extent practicable, be consistent with the requirements applicable to States under section 471(e) and shall permit the provision of the services and programs in the form of services and programs that are adapted to the culture and context of the tribal communities served.

“(ii) PERFORMANCE MEASURES.—The Secretary shall establish specific performance measures for each tribe, organization, or consortium that elects to provide services and programs specified in section 471(e)(1). The performance measures shall, to the greatest extent practicable, be consistent with the prevention services measures required for States under section 471(e)(6) but shall allow for consideration of factors unique to the provision of the services by tribes, organizations, or consortia.”; and

(B) in subsection (d)(1), by striking “and (5)” and inserting “(5), and (6)(A)”.

(2) CONFORMING AMENDMENT.—The heading for subsection (d) of section 479B of such Act (42 U.S.C. 679c) is amended by striking “FOR FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE PAYMENTS”.

**SEC. 112. FOSTER CARE MAINTENANCE PAYMENTS FOR CHILDREN WITH PARENTS IN A LICENSED RESIDENTIAL FAMILY-BASED TREATMENT FACILITY FOR SUBSTANCE ABUSE.**

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

(1) in subsection (a)(2)(C), by striking “or” and inserting “, with a parent residing in a licensed residential family-based treatment facility, but only to the extent permitted under subsection (j), or in a”; and

(2) by adding at the end the following:

“(j) CHILDREN PLACED WITH A PARENT RESIDING IN A LICENSED RESIDENTIAL FAMILY-BASED TREATMENT FACILITY FOR SUBSTANCE ABUSE.—

“(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, a child who is eligible for foster care maintenance payments under this section, or who would be eligible for the payments if the eligibility were determined without regard to paragraphs (1)(B) and (3) of subsection (a), shall be eligible for the payments for a period of not more than 12 months during which the child is placed with a parent who is in a licensed residential family-based treatment facility for substance abuse, but only if—

“(A) the recommendation for the placement is specified in the child’s case plan before the placement;

“(B) the treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; and

“(C) the substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

“(2) APPLICATION.—With respect to children for whom foster care maintenance payments are made under paragraph (1), only the children who satisfy the requirements of paragraphs (1)(B) and (3) of subsection (a) shall be considered to be children with respect to whom foster care maintenance payments are made under this section for purposes of subsection (h) or section 473(b)(3)(B).”.

(b) CONFORMING AMENDMENT.—Section 474(a)(1) of such Act (42 U.S.C. 674(a)(1)) is amended by inserting “subject to section 472(j),” before “an amount equal to the Federal” the 1st place it appears.

**SEC. 113. TITLE IV-E PAYMENTS FOR EVIDENCE-BASED KINSHIP NAVIGATOR PROGRAMS.**

Section 474(a) of the Social Security Act (42 U.S.C. 674(a)), as amended by section 111(c), is amended—

(1) in paragraph (6), by striking the period at the end and inserting “; plus”; and

(2) by adding at the end the following:

“(7) an amount equal to 50 percent of the amounts expended by the State during the quarter as the Secretary determines are for kinship navigator programs that meet the requirements described in section 427(a)(1) and that the Secretary determines are operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C), without regard to whether the expenditures are incurred on behalf of children who are, or are potentially, eligible for foster care maintenance payments under this part.”.

## **Subtitle B—Enhanced Support Under Title IV-B**

**SEC. 121. ELIMINATION OF TIME LIMIT FOR FAMILY REUNIFICATION SERVICES WHILE IN FOSTER CARE AND PERMITTING TIME-LIMITED FAMILY REUNIFICATION SERVICES WHEN A CHILD RETURNS HOME FROM FOSTER CARE.**

(a) IN GENERAL.—Section 431(a)(7) of the Social Security Act (42 U.S.C. 629a(a)(7)) is amended—

(1) in the paragraph heading, by striking “TIME-LIMITED FAMILY” and inserting “FAMILY”; and

(2) in subparagraph (A)—

(A) by striking “time-limited family” and inserting “family”;

(B) by inserting “or a child who has been returned home” after “child care institution”; and

(C) by striking “, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care” and inserting “and to ensure the strength and stability of the reunification. In the case of a child who has been returned home, the services and activities shall only be provided during the 15-month period that begins on the date that the child returns home”.

(b) CONFORMING AMENDMENTS.—

(1) Section 430 of such Act (42 U.S.C. 629) is amended in the matter preceding paragraph (1), by striking “time-limited”.

(2) Subsections (a)(4), (a)(5)(A), and (b)(1) of section 432 of such Act (42 U.S.C. 629b) are amended by striking “time-limited” each place it appears.

**SEC. 122. REDUCING BUREAUCRACY AND UNNECESSARY DELAYS WHEN PLACING CHILDREN IN HOMES ACROSS STATE LINES.**

(a) STATE PLAN REQUIREMENT.—Section 471(a)(25) of the Social Security Act (42 U.S.C. 671(a)(25)) is amended—

(1) by striking “provide” and insert “provides”; and

(2) by inserting “, which, not later than October 1, 2026, shall include the use of an electronic interstate case-processing system” before the 1st semicolon.

(b) GRANTS FOR THE DEVELOPMENT OF AN ELECTRONIC INTERSTATE CASE-PROCESSING SYSTEM TO EXPEDITE THE INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE OR GUARDIANSHIP, OR FOR ADOPTION.—Section 437 of such Act (42 U.S.C. 629g) is amended by adding at the end the following:

“(g) GRANTS FOR THE DEVELOPMENT OF AN ELECTRONIC INTERSTATE CASE-PROCESSING SYSTEM TO EXPEDITE THE INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE OR GUARDIANSHIP, OR FOR ADOPTION.—

“(1) PURPOSE.—The purpose of this subsection is to facilitate the development of an electronic interstate case-processing system for the exchange of data and documents to expedite the placements of children in foster, guardianship, or adoptive homes across State lines.

“(2) APPLICATION REQUIREMENTS.—A State that desires a grant under this subsection shall submit to the Secretary an application containing the following:

“(A) A description of the goals and outcomes to be achieved during the period for which grant funds are sought, which goals and outcomes must result in—

“(i) reducing the time it takes for a child to be provided with a safe and appropriate permanent living arrangement across State lines;

“(ii) improving administrative processes and reducing costs in the foster care system; and

“(iii) the secure exchange of relevant case files and other necessary materials in real time, and timely communications and placement decisions regarding interstate placements of children.

“(B) A description of the activities to be funded in whole or in part with the grant funds, including the sequencing of the activities.

“(C) A description of the strategies for integrating programs and services for children who are placed across State lines.

“(D) Such other information as the Secretary may require.

“(3) GRANT AUTHORITY.—The Secretary may make a grant to a State that complies with paragraph (2).

“(4) USE OF FUNDS.—A State to which a grant is made under this subsection shall use the grant to support the State in connecting with the electronic interstate case-processing system described in paragraph (1).

“(5) EVALUATIONS.—Not later than 1 year after the final year in which grants are awarded under this subsection, the Secretary shall submit to the Congress, and make available to the general public by posting on a website, a report that contains the following information:

“(A) How using the electronic interstate case-processing system developed pursuant to paragraph (4) has changed the time it takes for children to be placed across State lines.

“(B) The number of cases subject to the Interstate Compact on the Placement of Children that were processed through the electronic interstate case-processing system, and the number of interstate child placement cases that were processed outside the electronic interstate case-processing system, by each State in each year.

“(C) The progress made by States in implementing the electronic interstate case-processing system.

“(D) How using the electronic interstate case-processing system has affected various metrics related to child safety and well-being, including the time it takes for children to be placed across State lines.

“(E) How using the electronic interstate case-processing system has affected administrative costs and caseworker time spent on placing children across State lines.

“(6) DATA INTEGRATION.—The Secretary, in consultation with the Secretariat for the Interstate Compact on the Placement of Children and the States, shall assess how the electronic interstate case-processing system developed pursuant to paragraph (4) could be used to better serve and protect children that come to the attention of the child welfare system, by—

“(A) connecting the system with other data systems (such as systems operated by State law enforcement and judicial agencies, systems operated by the Federal Bureau of Investigation for the purposes of the Innocence Lost National Initiative, and other systems);

“(B) simplifying and improving reporting related to paragraphs (34) and (35) of section 471(a) regarding children or youth who have been identified as being a sex trafficking victim or children missing from foster care; and

“(C) improving the ability of States to quickly comply with background check requirements of section 471(a)(20), including checks of child abuse and neglect registries as required by section 471(a)(20)(B).”.

(c) RESERVATION OF FUNDS TO IMPROVE THE INTERSTATE PLACEMENT OF CHILDREN.—Section 437(b) of such Act (42 U.S.C. 629g(b)) is amended by adding at the end the following:

“(4) IMPROVING THE INTERSTATE PLACEMENT OF CHILDREN.—The Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 2017 for grants under subsection (g), and the amount so reserved shall remain available through fiscal year 2021.”.

**SEC. 123. ENHANCEMENTS TO GRANTS TO IMPROVE WELL-BEING OF FAMILIES AFFECTED BY SUBSTANCE ABUSE.**

Section 437(f) of the Social Security Act (42 U.S.C. 629g(f)) is amended—

(1) in the subsection heading, by striking “INCREASE THE WELL-BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY” and inserting “IMPLEMENT IV-E PREVENTION SERVICES, AND IMPROVE THE WELL-BEING OF, AND IMPROVE PERMANENCY OUTCOMES FOR, CHILDREN AND FAMILIES AFFECTED BY HEROIN, OPIOIDS, AND OTHER”;

(2) by striking paragraph (2) and inserting the following:

“(2) REGIONAL PARTNERSHIP DEFINED.—In this subsection, the term ‘regional partnership’ means a collaborative agreement (which may be established on an interstate, State, or intrastate basis) entered into by the following:

“(A) MANDATORY PARTNERS FOR ALL PARTNERSHIP GRANTS.—

“(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

“(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

“(B) MANDATORY PARTNERS FOR PARTNERSHIP GRANTS PROPOSING TO SERVE CHILDREN IN OUT-OF-HOME PLACEMENTS.—If the partnership proposes to serve children in out-of-home placements, the Juvenile Court or Administrative Office of the Court that is most appropriate to oversee the administration of court programs in the region to address the population of families who come to the attention of the court due to child abuse or neglect.

“(C) OPTIONAL PARTNERS.—At the option of the partnership, any of the following:

“(i) An Indian tribe or tribal consortium.

“(ii) Nonprofit child welfare service providers.

“(iii) For-profit child welfare service providers.

“(iv) Community health service providers, including substance abuse treatment providers.

“(v) Community mental health providers.

“(vi) Local law enforcement agencies.

“(vii) School personnel.

“(viii) Tribal child welfare agencies (or a consortia of the agencies).

“(ix) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under a State plan approved under this subpart.

“(D) EXCEPTION FOR REGIONAL PARTNERSHIPS WHERE THE LEAD APPLICANT IS AN INDIAN TRIBE OR TRIBAL CONSORTIA.—If an Indian tribe or tribal con-

sortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

- “(i) may (but is not required to) include the State child welfare agency as a partner in the collaborative agreement;
  - “(ii) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of the agencies); and
  - “(iii) if the condition described in paragraph (2)(B) applies, may include tribal court organizations in lieu of other judicial partners.”;
- (3) in paragraph (3)—
- (A) in subparagraph (A)—
    - (i) by striking “2012 through 2016” and inserting “2017 through 2021”; and
    - (ii) by striking “\$500,000 and not more than \$1,000,000” and inserting “\$250,000 and not more than \$1,000,000”;
  - (B) in subparagraph (B)—
    - (i) in the subparagraph heading, by inserting “; PLANNING” after “APPROVAL”;
    - (ii) in clause (i), by striking “clause (ii)” and inserting “clauses (ii) and (iii)”;
    - (iii) by adding at the end the following:
 

“(iii) SUFFICIENT PLANNING.—A grant awarded under this subsection shall be disbursed in 2 phases: a planning phase (not to exceed 2 years); and an implementation phase. The total disbursement to a grantee for the planning phase may not exceed \$250,000, and may not exceed the total anticipated funding for the implementation phase.”;
  - (C) by adding at the end the following:
 

“(D) LIMITATION ON PAYMENT FOR A FISCAL YEAR.—No payment shall be made under subparagraph (A) or (C) for a fiscal year until the Secretary determines that the eligible partnership has made sufficient progress in meeting the goals of the grant and that the members of the eligible partnership are coordinating to a reasonable degree with the other members of the eligible partnership.”;
- (4) in paragraph (4)—
- (A) in subparagraph (B)—
    - (i) in clause (i), by inserting “, parents, and families” after “children”;
    - (ii) in clause (ii), by striking “safety and permanence for such children; and” and inserting “safe, permanent caregiving relationships for the children.”;
    - (iii) in clause (iii), by striking “or” and inserting “increase reunification rates for children who have been placed in out of home care, or decrease”;
    - (iv) by redesignating clause (iii) as clause (v) and inserting after clause (ii) the following:
 

“(iii) improve the substance abuse treatment outcomes for parents including retention in treatment and successful completion of treatment;

“(iv) facilitate the implementation, delivery, and effectiveness of prevention services and programs under section 471(e); and”;
  - (B) in subparagraph (D), by striking “where appropriate.”; and
  - (C) by striking subparagraphs (E) and (F) and inserting the following:
 

“(E) A description of a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period, including through the use of prevention services and programs under section 471(e) and other funds provided to the State for child welfare and substance abuse prevention and treatment services.

“(F) Additional information needed by the Secretary to determine that the proposed activities and implementation will be consistent with research or evaluations showing which practices and approaches are most effective.”;
- (5) in paragraph (5)(A), by striking “abuse treatment” and inserting “use disorder treatment including medication assisted treatment and in-home substance abuse disorder treatment and recovery”;
- (6) in paragraph (7)—
- (A) by striking “and” at the end of subparagraph (C); and
  - (B) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:
 

“(D) demonstrate a track record of successful collaboration among child welfare, substance abuse disorder treatment and mental health agencies; and”;
- (7) in paragraph (8)—

- (A) in subparagraph (A)—
- (i) by striking “establish indicators that will be” and inserting “review indicators that are”; and
  - (ii) by striking “in using funds made available under such grants to achieve the purpose of this subsection” and inserting “and establish a set of core indicators related to child safety, parental recovery, parenting capacity, and family well-being. In developing the core indicators, to the extent possible, indicators shall be made consistent with the outcome measures described in section 471(e)(6)”;
- (B) in subparagraph (B)—
- (i) in the matter preceding clause (i), by inserting “base the performance measures on lessons learned from prior rounds of regional partnership grants under this subsection, and” before “consult”; and
  - (ii) by striking clauses (iii) and (iv) and inserting the following:
    - “(iii) Other stakeholders or constituencies as determined by the Secretary.”;
- (8) in paragraph (9)(A), by striking clause (i) and inserting the following:
  - “(i) SEMIANNUAL REPORTS.—Not later than September 30 of each fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and every 6 months thereafter, the grant recipient shall submit to the Secretary a report on the services provided and activities carried out during the reporting period, progress made in achieving the goals of the program, the number of children, adults, and families receiving services, and such additional information as the Secretary determines is necessary. The report due not later than September 30 of the last such fiscal year shall include, at a minimum, data on each of the performance indicators included in the evaluation of the regional partnership.”; and
- (9) in paragraph (10), by striking “2012 through 2016” and inserting “2017 through 2021”.

## Subtitle C—Miscellaneous

### SEC. 131. REVIEWING AND IMPROVING LICENSING STANDARDS FOR PLACEMENT IN A RELATIVE FOSTER FAMILY HOME.

(a) IDENTIFICATION OF REPUTABLE MODEL LICENSING STANDARDS.—Not later than October 1, 2017, the Secretary of Health and Human Services shall identify reputable model licensing standards with respect to the licensing of foster family homes (as defined in section 472(c)(1) of the Social Security Act).

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

- (1) in paragraph (34)(B), by striking “and” after the semicolon;
- (2) in paragraph (35)(B), by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following:
  - “(36) provides that, not later than April 1, 2018, the State shall submit to the Secretary information addressing—
  - “(A) whether the State licensing standards are in accord with model standards identified by the Secretary, and if not, the reason for the specific deviation and a description as to why having a standard that is reasonably in accord with the corresponding national model standards is not appropriate for the State;
  - “(B) whether the State has elected to waive standards established in 471(a)(10)(A) for relative foster family homes (pursuant to waiver authority provided by 471(a)(10)(D)), a description of which standards the State most commonly waives, and if the State has not elected to waive the standards, the reason for not waiving these standards;
  - “(C) if the State has elected to waive standards specified in subparagraph (B), how caseworkers are trained to use the waiver authority and whether the State has developed a process or provided tools to assist caseworkers in waiving nonsafety standards per the authority provided in 471(a)(10)(D) to quickly place children with relatives; and
  - “(D) a description of the steps the State is taking to improve caseworker training or the process, if any; and”.

**SEC. 132. DEVELOPMENT OF A STATEWIDE PLAN TO PREVENT CHILD ABUSE AND NEGLECT FATALITIES.**

Section 422(b)(19) of the Social Security Act (42 U.S.C. 622(b)(19)) is amended to read as follows:

“(19) document steps taken to track and prevent child maltreatment deaths by including—

“(A) a description of the steps the State is taking to compile complete and accurate information on the deaths required by Federal law to be reported by the State agency referred to in paragraph (1), including gathering relevant information on the deaths from the relevant organizations in the State including entities such as State vital statistics department, child death review teams, law enforcement agencies, offices of medical examiners or coroners; and

“(B) a description of the steps the state is taking to develop and implement a comprehensive, statewide plan to prevent the fatalities that involves and engages relevant public and private agency partners, including those in public health, law enforcement, and the courts.”.

**SEC. 133. MODERNIZING THE TITLE AND PURPOSE OF TITLE IV-E.**

(a) **PART HEADING.**—The heading for part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended to read as follows:

**“PART E—FEDERAL PAYMENTS FOR FOSTER CARE, PREVENTION, AND PERMANENCY”.**

(b) **PURPOSE.**—The 1st sentence of section 470 of such Act (42 U.S.C. 670) is amended—

(1) by striking “1995) and” and inserting “1995),”;

(2) by inserting “kinship guardianship assistance, and prevention services or programs specified in section 471(e)(1),” after “needs,”; and

(3) by striking “(commencing with the fiscal year which begins October 1, 1980)”.

**SEC. 134. EFFECTIVE DATES.**

(a) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subject to subsection (b), the amendments made by this title shall take effect on October 1, 2016.

(2) **EXCEPTIONS.**—The amendments made by sections 131 and 133 shall take effect on the date of enactment of this Act.

(b) **TRANSITION RULE.**—

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

(2) **APPLICATION TO PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.**—In the case of an Indian tribe, tribal organization, or tribal consortium which the Secretary of Health and Human Services determines requires time to take action necessary to comply with the additional requirements imposed by the amendments made by this title (whether the tribe, organization, or tribal consortium has a plan under section 479B of the Social Security Act or a cooperative agreement or contract entered into with a State), the Secretary shall provide the tribe, organization, or tribal consortium with such additional time as the Secretary determines is necessary for the tribe, organization, or tribal consortium to take the action to comply with the additional requirements before being regarded as failing to comply with the requirements.



## TITLE II—ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME

### SEC. 201. LIMITATION ON FEDERAL FINANCIAL PARTICIPATION FOR PLACEMENTS THAT ARE NOT IN FOSTER FAMILY HOMES.

(a) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

(1) IN GENERAL.—Section 472 of the Social Security Act (42 U.S.C. 672), as amended by section 112, is amended—

(A) in subsection (a)(2)(C), by inserting “, but only to the extent permitted under subsection (k)” after “institution”; and

(B) by adding at the end the following:

“(k) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

“(1) IN GENERAL.—Beginning with the third week for which foster care maintenance payments are made under this section on behalf of a child placed in a child-care institution, no Federal payment shall be made to the State under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of the child unless—

“(A) the child is placed in a child-care institution that is a setting specified in paragraph (2) (or is placed in a licensed residential family-based treatment facility consistent with subsection (j)); and

“(B) in the case of a child placed in a qualified residential treatment program (as defined in paragraph (4)), the requirements specified in paragraph (3) and section 475A(c) are met.

“(2) SPECIFIED SETTINGS FOR PLACEMENT.—The settings for placement specified in this paragraph are the following:

“(A) A qualified residential treatment program (as defined in paragraph (4)).

“(B) A setting specializing in providing prenatal, post-partum, or parenting supports for youth.

“(C) In the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently.

“(3) ASSESSMENT TO DETERMINE APPROPRIATENESS OF PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—

“(A) DEADLINE FOR ASSESSMENT.—In the case of a child who is placed in a qualified residential treatment program, if the assessment required under section 475A(c)(1) is not completed within 30 days after the placement is made, no Federal payment shall be made to the State under section 474(a)(1) for any amounts expended for foster care maintenance payments on behalf of the child during the placement.

“(B) DEADLINE FOR TRANSITION OUT OF PLACEMENT.—If the assessment required under section 475A(c)(1) determines that the placement of a child in a qualified residential treatment program is not appropriate, a court disapproves such a placement under section 475A(c)(2), or a child who has been in an approved placement in a qualified residential treatment program is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home, Federal payments shall be made to the State under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of the child while the child remains in the qualified residential treatment program only during the period necessary for the child to transition home or to such a placement. In no event shall a State receive Federal payments under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of a child who remains placed in a qualified residential treatment program after the end of the 30-day period that begins on the date a determination is made that the placement is no longer the recommended or approved placement for the child.

“(4) QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—For purposes of this part, the term ‘qualified residential treatment program’ means a program that—

“(A) has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under section 475A(c);

“(B) has registered or licensed nursing staff and other licensed clinical staff who—

“(i) provide care within the scope of their practice as defined by State law;

“(ii) are on-site during business hours; and

“(iii) are available 24 hours a day and 7 days a week;

“(C) to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;

“(D) facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;

“(E) documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

“(F) provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and

“(G) is licensed in accordance with section 471(a)(10) and is accredited by any of the following independent, not-for-profit organizations:

“(i) The Commission on Accreditation of Rehabilitation Facilities (CARF).

“(ii) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

“(iii) The Council on Accreditation (COA).

“(iv) Any other independent, not-for-profit accrediting organization approved by the Secretary.”

(2) CONFORMING AMENDMENT.—Section 474(a)(1) of the Social Security Act (42 U.S.C. 674(a)(1)), as amended by section 112(b), is amended by striking “section 472(j)” and inserting “subsections (j) and (k) of section 472”.

(b) DEFINITION OF FOSTER FAMILY HOME, CHILD-CARE INSTITUTION.—Section 472(c) of such Act (42 U.S.C. 672(c)(1)) is amended to read as follows:

“(c) DEFINITIONS.—For purposes of this part:

“(1) FOSTER FAMILY HOME.—

“(A) IN GENERAL.—The term ‘foster family home’ means the home of an individual or family—

“(i) that is licensed or approved by the State in which it is situated as a foster family home that meets the standards established for the licensing or approval; and

“(ii) in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State to be a foster parent—

“(I) that the State deems capable of adhering to the reasonable and prudent parent standard;

“(II) that provides 24-hour substitute care for children placed away from their parents or other caretakers; and

“(III) that provides the care for not more than 6 children in foster care.

“(B) STATE FLEXIBILITY.—The number of foster children that may be cared for in a home under subparagraph (A) may exceed the numerical limitation in subparagraph (A)(ii)(III), at the option of the State, for any of the following reasons:

“(i) To allow a parenting youth in foster care to remain with the child of the parenting youth.

“(ii) To allow siblings to remain together.

“(iii) To allow a child with an established meaningful relationship with the family to remain with the family.

“(iv) To allow a family with special training or skills to provide care to a child who has a severe disability.

“(C) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as prohibiting a foster parent from renting the home in which the parent cares for a foster child placed in the parent’s care.

“(2) CHILD-CARE INSTITUTION.—

“(A) IN GENERAL.—The term ‘child-care institution’ means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved by the agency of the State responsible for licensing or approval of institutions of this type as meeting the standards established for the licensing.

“(B) SUPERVISED SETTINGS.—In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the indi-

vidual is living independently, in accordance with such conditions as the Secretary shall establish in regulations.

“(C) EXCLUSIONS.—The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.”

(c) TRAINING FOR STATE JUDGES, ATTORNEYS, AND OTHER LEGAL PERSONNEL IN CHILD WELFARE CASES.—Section 438(b)(1) of such Act (42 U.S.C. 629h(b)(1)) is amended in the matter preceding subparagraph (A) by inserting “shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home,” after “with respect to the child.”

(d) ASSURANCE OF NONIMPACT ON JUVENILE JUSTICE SYSTEM.—

(1) STATE PLAN REQUIREMENT.—Section 471(a) of such Act (42 U.S.C. 671(a)), as amended by section 131, is further amended by adding at the end the following:

“(37) includes a certification that, in response to the limitation imposed under section 472(k) with respect to foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State’s juvenile justice system.”

(2) GAO STUDY AND REPORT.—The Comptroller General of the United States shall evaluate the impact, if any, on State juvenile justice systems of the limitation imposed under section 472(k) of the Social Security Act (as added by section 201(a)(1)) on foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, in accordance with the amendments made by subsections (a) and (b) of this section. In particular, the Comptroller General shall evaluate the extent to which children in foster care who also are subject to the juvenile justice system of the State are placed in a facility under the jurisdiction of the juvenile justice system and whether the lack of available congregate care placements under the jurisdiction of the child welfare systems is a contributing factor to that result. Not later than December 31, 2023, the Comptroller General shall submit to Congress a report on the results of the evaluation.

**SEC. 202. ASSESSMENT AND DOCUMENTATION OF THE NEED FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.**

Section 475A of the Social Security Act (42 U.S.C. 675a) is amended by adding at the end the following:

“(c) ASSESSMENT, DOCUMENTATION, AND JUDICIAL DETERMINATION REQUIREMENTS FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—In the case of any child who is placed in a qualified residential treatment program (as defined in section 472(k)(4)), 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)(A) Within 30 days of the start of each placement in such a setting, a qualified individual (as defined in subparagraph (D)) shall—

“(i) assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;

“(ii) determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting from among the settings specified in section 472(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

“(iii) develop a list of child-specific short- and long-term mental and behavioral health goals.

“(B)(i) The State shall assemble a family and permanency team for the child in accordance with the requirements of clauses (ii) and (iii). The qualified individual conducting the assessment required under subparagraph (A) shall work in conjunction with the family of, and permanency team for, the child while conducting and making the assessment.

“(ii) The family and permanency team shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the family and permanency team shall include the members of the permanency planning team for the child that are selected by the child in accordance with section 475(5)(C)(iv).

“(iii) The State shall document in the child’s case plan—

“(I) the reasonable and good faith effort of the State to identify and include all such individuals on the family of, and permanency team for, the child;

“(II) all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;

“(III) evidence that meetings of the family and permanency team, including meetings relating to the assessment required under subparagraph (A), are held at a time and place convenient for family;

“(IV) if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;

“(V) evidence that the assessment required under subparagraph (A) is determined in conjunction with the family and permanency team; and

“(VI) the placement preferences of the family and permanency team relative to the assessment and, if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment under subparagraph (A), the reasons why the preferences of the team and of the child were not recommended.

“(C) In the case of a child who the qualified individual conducting the assessment under subparagraph (A) determines should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that a needs of the child cannot be met in a foster family home. The qualified individual also shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

“(D)(i) Subject to clause (ii), in this subsection, the term ‘qualified individual’ means a trained professional or licensed clinician who is not an employee of the State agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State.

“(ii) The Secretary may approve a request of a State to waive any requirement in clause (i) upon a submission by the State, in accordance with criteria established by the Secretary, that certifies that the trained professionals or licensed clinicians with responsibility for performing the assessments described in subparagraph (A) shall maintain objectivity with respect to determining the most effective and appropriate placement for a child.

“(2) Within 60 days of the start of each placement in a qualified residential treatment program, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, shall—

“(A) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment under paragraph (1);

“(B) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

“(C) approve or disapprove the placement.

“(3) The written documentation made under paragraph (1)(C) and documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under paragraph (2) shall be included in and made part of the case plan for the child.

“(4) As long as a child remains placed in a qualified residential treatment program, the State agency shall submit evidence at each status review and each permanency hearing held with respect to the child—

“(A) demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive

environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

“(B) documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

“(C) documenting the efforts made by the State agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

“(5) In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State agency shall submit to the Secretary—

“(A) the most recent versions of the evidence and documentation specified in paragraph (4); and

“(B) the signed approval of the head of the State agency for the continued placement of the child in that setting.”.

**SEC. 203. PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES.**

(a) STATE PLAN REQUIREMENT.—Section 422(b)(15)(A) of the Social Security Act (42 U.S.C. 622(b)(15)(A)) is amended—

(1) in clause (vi), by striking “and” after the semicolon;

(2) by redesignating clause (vii) as clause (viii); and

(3) by inserting after clause (vi) the following:

“(vii) the procedures and protocols the State has established to ensure that children in foster care placements are not inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and placed in settings that are not foster family homes as a result of the inappropriate diagnoses; and”.

(b) EVALUATION.—Section 476 of such Act (42 U.S.C. 676), as amended by section 111(d), is further amended by adding at the end the following:

“(e) EVALUATION OF STATE PROCEDURES AND PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES OF MENTAL ILLNESS OR OTHER CONDITIONS.—The Secretary shall conduct an evaluation of the procedures and protocols established by States in accordance with the requirements of section 422(b)(15)(A)(vii). The evaluation shall analyze the extent to which States comply with and enforce the procedures and protocols and the effectiveness of various State procedures and protocols and shall identify best practices. Not later than January 1, 2019, the Secretary shall submit a report on the results of the evaluation to Congress.”.

**SEC. 204. ADDITIONAL DATA AND REPORTS REGARDING CHILDREN PLACED IN A SETTING THAT IS NOT A FOSTER FAMILY HOME.**

Section 479A(a)(7)(A) of the Social Security Act (42 U.S.C. 679b(a)(7)(A)) is amended by striking clauses (i) through (vi) and inserting the following:

“(i) with respect to each such placement—

“(I) the type of the placement setting, including whether the placement is shelter care, a group home and if so, the range of the child population in the home, a residential treatment facility, a hospital or institution providing medical, rehabilitative, or psychiatric care, a setting specializing in providing prenatal, postpartum or parenting supports, or some other kind of child-care institution and if so, what kind;

“(II) the number of children in the placement setting and the age, race, ethnicity, and gender of each of the children;

“(III) for each child in the placement setting, the length of the placement of the child in the setting, whether the placement of the child in the setting is the first placement of the child and if not, the number and type of previous placements of the child, and whether the child has special needs or another diagnosed mental or physical illness or condition; and

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

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

**SEC. 205. EFFECTIVE DATES; APPLICATION TO WAIVERS.**

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2) and subsections (b) and (c), the amendments made by this title shall take effect on October 1, 2016.

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

(b) **LIMITATION ON FEDERAL FINANCIAL PARTICIPATION FOR PLACEMENTS THAT ARE NOT IN FOSTER FAMILY HOMES AND RELATED PROVISIONS.**—The amendments made by sections 201(a), 201(b), 201(d), and 202 shall take effect on October 1, 2019.

(c) **APPLICATION TO STATES WITH WAIVERS.**—In the case of a State that, on the date of enactment of this Act, has in effect a waiver approved under section 1130 of the Social Security Act (42 U.S.C. 1320a-9), the amendments made by this title shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent the amendments are inconsistent with the terms of the waiver.

## **TITLE III—CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES**

### **SEC. 301. SUPPORTING AND RETAINING FOSTER FAMILIES FOR CHILDREN.**

(a) **SUPPORTING AND RETAINING FOSTER PARENTS AS A FAMILY SUPPORT SERVICE.**—Section 431(a)(2)(B) of the Social Security Act (42 U.S.C. 631(a)(2)(B)) is amended by redesignating clauses (iii) through (vi) as clauses (iv) through (vii), respectively, and inserting after clause (ii) the following:

“(iii) To support and retain foster families so they can provide quality family-based settings for children in foster care.”.

(b) **SUPPORT FOR FOSTER FAMILY HOMES.**—Section 436 of such Act (42 U.S.C. 629f) is amended by adding at the end the following:

“(c) **SUPPORT FOR FOSTER FAMILY HOMES.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2018, \$8,000,000 for the Secretary to make competitive grants to States, Indian tribes, or tribal consortia to support the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings, focused on States, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings. The amount appropriated under this subparagraph shall remain available through fiscal year 2022.”.

### **SEC. 302. EXTENSION OF CHILD AND FAMILY SERVICES PROGRAMS.**

(a) **EXTENSION OF STEPHANIE TUBBS JONES CHILD WELFARE SERVICES PROGRAM.**—Section 425 of the Social Security Act (42 U.S.C. 625) is amended by striking “2012 through 2016” and inserting “2017 through 2021”.

(b) **EXTENSION OF PROMOTING SAFE AND STABLE FAMILIES PROGRAM AUTHORIZATIONS.**—

(1) **IN GENERAL.**—Section 436(a) of such Act (42 U.S.C. 629f(a)) is amended by striking all that follows “\$345,000,000” and inserting “for each of fiscal years 2017 through 2021.”.

(2) **DISCRETIONARY GRANTS.**—Section 437(a) of such Act (42 U.S.C. 629g(a)) is amended by striking “2012 through 2016” and inserting “2017 through 2021”.

(c) **EXTENSION OF FUNDING RESERVATIONS FOR MONTHLY CASEWORKER VISITS AND REGIONAL PARTNERSHIP GRANTS.**—Section 436(b) of such Act (42 U.S.C. 629f(b)) is amended—

(1) in paragraph (4)(A), by striking “2012 through 2016” and inserting “2017 through 2021”; and

(2) in paragraph (5), by striking “2012 through 2016” and inserting “2017 through 2021”.

(d) **REAUTHORIZATION OF FUNDING FOR STATE COURTS.**—

(1) **EXTENSION OF PROGRAM.**—Section 438(c)(1) of such Act (42 U.S.C. 629h(c)(1)) is amended by striking “2012 through 2016” and inserting “2017 through 2021”.

(2) EXTENSION OF FEDERAL SHARE.—Section 438(d) of such Act (42 U.S.C. 629h(d)) is amended by striking “2012 through 2016” and inserting “2017 through 2021”.

(e) REPEAL OF EXPIRED PROVISIONS.—Section 438(e) of such Act (42 U.S.C. 629h(e)) is repealed.

**SEC. 303. IMPROVEMENTS TO THE JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM AND RELATED PROVISIONS.**

(a) AUTHORITY TO SERVE FORMER FOSTER YOUTH UP TO AGE 23.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) in subsection (a)(5), by inserting “(or 23 years of age, in the case of a State with a certification under subsection (b)(3)(A)(ii) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with such subsection)” after “21 years of age”;

(2) in subsection (b)(3)(A)—

(A) by inserting “(i)” before “A certification”;

(B) by striking “children who have left foster care” and all that follows through the period and inserting “youths who have aged out of foster care and have not attained 21 years of age.”; and

(C) by adding at the end the following:

“(ii) If the State has elected under section 475(8)(B) to extend eligibility for foster care to all children who have not attained 21 years of age, or if the Secretary determines that the State agency responsible for administering the State plans under this part and part B uses State funds or any other funds not provided under this part to provide services and assistance for youths who have aged out of foster care that are comparable to the services and assistance the youths would receive if the State had made such an election, the certification required under clause (i) may provide that the State will provide assistance and services to youths who have aged out of foster care and have not attained 23 years of age.”; and

(3) in subsection (b)(3)(B), by striking “children who have left foster care” and all that follows through the period and inserting “youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a State with a certification under subparagraph (A)(i) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with subparagraph (A)(ii)).”.

(b) AUTHORITY TO REDISTRIBUTE UNSPENT FUNDS.—Section 477(d) of such Act (42 U.S.C. 677(d)) is amended—

(1) in paragraph (4), by inserting “or does not expend allocated funds within the time period specified under section 477(d)(3)” after “provided by the Secretary”; and

(2) by adding at the end the following:

“(5) REDISTRIBUTION OF UNEXPENDED AMOUNTS.—

“(A) AVAILABILITY OF AMOUNTS.—To the extent that amounts paid to States under this section in a fiscal year remain unexpended by the States at the end of the succeeding fiscal year, the Secretary may make the amounts available for redistribution in the 2nd succeeding fiscal year among the States that apply for additional funds under this section for that 2nd succeeding fiscal year.

“(B) REDISTRIBUTION.—

“(i) IN GENERAL.—The Secretary shall redistribute the amounts made available under subparagraph (A) for a fiscal year among eligible applicant States. In this subparagraph, the term ‘eligible applicant State’ means a State that has applied for additional funds for the fiscal year under subparagraph (A) if the Secretary determines that the State will use the funds for the purpose for which originally allotted under this section.

“(ii) AMOUNT TO BE REDISTRIBUTED.—The amount to be redistributed to each eligible applicant State shall be the amount so made available multiplied by the State foster care ratio, (as defined in subsection (c)(4), except that, in such subsection, ‘all eligible applicant States (as defined in subsection (d)(5)(B)(i))’ shall be substituted for ‘all States’).

“(iii) TREATMENT OF REDISTRIBUTED AMOUNT.—Any amount made available to a State under this paragraph shall be regarded as part of the allotment of the State under this section for the fiscal year in which the redistribution is made.

“(C) TRIBES.—For purposes of this paragraph, the term ‘State’ includes an Indian tribe, tribal organization, or tribal consortium that receives an allotment under this section.”.

## (c) EXPANDING AND CLARIFYING THE USE OF EDUCATION AND TRAINING VOUCHERS.—

(1) IN GENERAL.—Section 477(i)(3) of such Act (42 U.S.C. 677(i)(3)) is amended—

(A) by striking “on the date” and all that follows through “23” and inserting “to remain eligible until they attain 26”; and

(B) by inserting “, but in no event may a youth participate in the program for more than 5 years (whether or not consecutive)” before the period.

(2) CONFORMING AMENDMENT.—Section 477(i)(1) of such Act (42 U.S.C. 677(i)(1)) is amended by inserting “who have attained 14 years of age” before the period.

## (d) OTHER IMPROVEMENTS.—Section 477 of such Act (42 U.S.C. 677), as amended by subsections (a), (b), and (c), is amended—

(1) in the section heading, by striking “**INDEPENDENCE PROGRAM**” and inserting “**PROGRAM FOR SUCCESSFUL TRANSITION TO ADULTHOOD**”;

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services” and inserting “support all youth who have experienced foster care at age 14 or older in their transition to adulthood through transitional services”;

(ii) by inserting “and post-secondary education” after “high school diploma”; and

(iii) by striking “training in daily living skills, training in budgeting and financial management skills” and inserting “training and opportunities to practice daily living skills (such as financial literacy training and driving instruction)”;

(B) in paragraph (2), by striking “who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment” and inserting “who have experienced foster care at age 14 or older achieve meaningful, permanent connections with a caring adult”;

(C) in paragraph (3), by striking “who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions” and inserting “who have experienced foster care at age 14 or older engage in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families experience”;

(D) by striking paragraph (4) and redesignating paragraphs (5) through (8) as paragraphs (4) through (7);

(3) in subsection (b)—

(A) in paragraph (2)(D), by striking “adolescents” and inserting “youth”; and

(B) in paragraph (3)—

(i) in subparagraph (D)—

(I) by inserting “including training on youth development” after “to provide training”; and

(II) by striking “adolescents preparing for independent living” and all that follows through the period and inserting “youth preparing for a successful transition to adulthood and making a permanent connection with a caring adult.”;

(ii) in subparagraph (H), by striking “adolescents” each place it appears and inserting “youth”; and

(iii) in subparagraph (K)—

(I) by striking “an adolescent” and inserting “a youth”; and

(II) by striking “the adolescent” each place it appears and inserting “the youth”; and

(4) in subsection (f), by striking paragraph (2) and inserting the following:

“(2) REPORT TO CONGRESS.—Not later than October 1, 2017, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the National Youth in Transition Database and any other databases in which States report outcome measures relating to children in foster care and children who have aged out of foster care or left foster care for kinship guardianship or adoption. The report shall include the following:

“(A) A description of the reasons for entry into foster care and of the foster care experiences, such as length of stay, number of placement settings, case goal, and discharge reason of 17-year-olds who are surveyed by the Na-



tional Youth in Transition Database and an analysis of the comparison of that description with the reasons for entry and foster care experiences of children of other ages who exit from foster care before attaining age 17.

“(B) A description of the characteristics of the individuals who report poor outcomes at ages 19 and 21 to the National Youth in Transition Database.

“(C) Benchmarks for determining what constitutes a poor outcome for youth who remain in or have exited from foster care and plans the Executive branch will take to incorporate these benchmarks in efforts to evaluate child welfare agency performance in providing services to children transitioning from foster care.

“(D) An analysis of the association between types of placement, number of overall placements, time spent in foster care, and other factors, and outcomes at ages 19 and 21.

“(E) An analysis of the differences in outcomes for children in and formerly in foster care at age 19 and 21 among States.”

(e) CLARIFYING DOCUMENTATION PROVIDED TO FOSTER YOUTH LEAVING FOSTER CARE.—Section 475(5)(1) of such Act (42 U.S.C. 675(5)(1)) is amended by inserting after “REAL ID Act of 2005” the following: “, and any official documentation necessary to prove that the child was previously in foster care”.

## **TITLE IV—CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP**

### **SEC. 401. REAUTHORIZING ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PROGRAMS.**

Section 473A of the Social Security Act (42 U.S.C. 673b) is amended—

(1) in subsection (b)(4), by striking “2013 through 2015” and inserting “2016 through 2020”;

(2) in subsection (h)(1)(D), by striking “2016” and inserting “2021”; and

(3) in subsection (h)(2), by striking “2016” and inserting “2021”.

## **TITLE V—TECHNICAL CORRECTIONS**

### **SEC. 501. TECHNICAL CORRECTIONS TO DATA EXCHANGE STANDARDS TO IMPROVE PROGRAM COORDINATION.**

(a) IN GENERAL.—Section 440 of the Social Security Act (42 U.S.C. 629m) is amended to read as follows:

#### **“SEC. 440. DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.**

“(a) DESIGNATION.—The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget and considering State government perspectives, by rule, designate data exchange standards to govern, under this part—

“(1) necessary categories of information that State agencies operating programs under State plans approved under this part are required under applicable Federal law to electronically exchange with another State agency; and

“(2) Federal reporting and data exchange required under applicable Federal law.

“(b) REQUIREMENTS.—The data exchange standards required by paragraph (1) shall, to the extent practicable—

“(1) incorporate a widely accepted, non-proprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

“(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

“(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;

“(4) be consistent with and implement applicable accounting principles;

“(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and

“(6) be capable of being continually upgraded as necessary.

“(c) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a change to existing data exchange standards found to be effective and efficient.”

(b) EFFECTIVE DATE.—Not later than the date that is 24 months after the date of the enactment of this section, the Secretary of Health and Human Services shall issue a proposed rule that—

(1) identifies federally required data exchanges, include specification and timing of exchanges to be standardized, and address the factors used in determining whether and when to standardize data exchanges; and

(2) specifies State implementation options and describes future milestones.

**SEC. 502. TECHNICAL CORRECTIONS TO STATE REQUIREMENT TO ADDRESS THE DEVELOPMENTAL NEEDS OF YOUNG CHILDREN.**

Section 422(b)(18) of the Social Security Act (42 U.S.C. 622(b)(18)) is amended by striking “such children” and inserting “all vulnerable children under 5 years of age”.

**TITLE VI—ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASE IN ADOPTION ASSISTANCE**

**SEC. 601. DELAY OF ADOPTION ASSISTANCE PHASE-IN.**

Section 473(e)(1) of the Social Security Act (42 U.S.C. 673(e)(1)) is amended—

(1) in subparagraph (A), by striking “fiscal year” each place it appears and inserting “period”; and

(2) in subparagraph (B)—

(A) in the matter preceding the table, by striking “fiscal year” and inserting “period”; and

(B) in the table—

(i) by striking “of fiscal year:” and inserting “of.”;

(ii) by striking “2010” and inserting “Fiscal year 2010”;

(iii) by striking “2011” and inserting “Fiscal year 2011”;

(iv) by striking “2012” and inserting “Fiscal year 2012”;

(v) by striking “2013” and inserting “Fiscal year 2013”;

(vi) by striking “2014” and inserting “Fiscal year 2014”;

(vii) by striking “2015” and inserting “Fiscal year 2015”;

(viii) by striking “2016” and inserting “October 1, 2015, through March 31, 2019”;

(ix) by striking “2017” and inserting “April 1, 2019, through March 31, 2020”; and

(x) by striking “2018” and inserting “April 1, 2020,”.

**SEC. 602. GAO STUDY AND REPORT ON STATE REINVESTMENT OF SAVINGS RESULTING FROM INCREASE IN ADOPTION ASSISTANCE.**

(a) **STUDY.**—The Comptroller General of the United States shall study the extent to which States are complying with the requirements of section 473(a)(8) of the Social Security Act relating to the effects of phasing out the AFDC income eligibility requirements for adoption assistance payments under section 473 of the Social Security Act, as enacted by section 402 of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110–351; 122 Stat. 3975) and amended by section 206 of the Preventing Sex Trafficking and Strengthening Families Act (Public Law 113–183; 128 Stat. 1919). In particular, the Comptroller General shall analyze the extent to which States are complying with the following requirements under section 473(a)(8)(D) of the Social Security Act:

(1) The requirement to spend an amount equal to the amount of the savings (if any) in State expenditures under part E of title IV of the Social Security Act resulting from phasing out the AFDC income eligibility requirements for adoption assistance payments under section 473 of such Act to provide to children of families any service that may be provided under part B or E of title IV of such Act.

(2) The requirement that a State shall spend not less than 30 percent of the amount of any savings described in subparagraph (A) on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least ⅔ of the spending by the State to comply with the 30 percent requirement being spent on post-adoption and post-guardianship services.

(b) **REPORT.**—The Comptroller General of the United States shall submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services a report that contains the results of the study required by subsection (a), including recommendations to ensure compliance with laws referred to in subsection (a).

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H.R. 5456 as amended, the “Family First Prevention Services Act of 2016,” as ordered reported by the Committee on Ways and Means on June 15, 2016, strengthens families by providing evidence-based prevention services to keep children out of foster care and reduces inappropriate placements of foster children into group homes.

### B. BACKGROUND AND NEED FOR LEGISLATION

More than 400,000 children in the United States are living in foster care on any one day. While some children stay only for a short time, on a given day nearly 100,000 have spent at least one year in care, more than 67,000 have been living in foster care for three years or more, and each year more than 20,000 children reach adulthood while living in foster care.<sup>1</sup>

The public and human cost of removing abused and neglected children from their birth families and caring for them in foster families, group homes, or institutions is substantial. State and federal expenditures in foster care totaled more than \$8 billion in fiscal year 2014 under title IV–E of the Social Security Act (Federal Payments for Foster Care and Adoption Assistance).<sup>2</sup> Even more is spent on medical care and child care payments to the families that care for these vulnerable children. Further, there are longer-term costs that society incurs because of the developmental risks associated with child maltreatment, trauma, and family disruption.

The majority of children who enter foster care end up either reunifying with their parents or principal caretakers (51%) or going to live with a relative or guardian (15%).<sup>3</sup> Given the intense emotional trauma associated with entering foster care, as well as the cost to both state and federal governments, there is great interest in identifying ways to promote family stability, reduce foster care entries and lengths of stay, and facilitate reunification and kinship placements. Additionally, as policymakers look at ways to ensure that group homes are safe and limited to situations where a family placement cannot meet the child’s needs, there also needs to be better support to ensure those children are safe at home or with foster families.

The “Family First Prevention Services Act of 2016” would shift federal child welfare spending away from what is often the worst-case scenario (having to remove children from their homes to keep them safe) and toward better options (evidence-based programs to strengthen families and protect children). Starting on October 1, 2019, when current title IV–E waivers expire, the bill would reim-

<sup>1</sup>U.S. House Committee on Ways and Means, 2014 Green Book, Chapter 11, “Additional Tables and Figures Related to Child Welfare,” Table 11–14 (FY2013 data) <http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/Table%2011-17A.pdf> and Table 11–17 <http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/Table%2011-17.pdf>.

<sup>2</sup>U.S. Department of Health and Human Services, Administration for Children and Families, Office of Legislative Affairs and Budget, Title IV–E FY2014 Expenditures as Reported by the States (May 2015).

<sup>3</sup>U.S. House Committee on Ways and Means, 2014 Green Book, Chapter 11, “Additional Tables and Figures Related to Child Welfare,” Table 11–17A. <http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/Table%2011-17A.pdf>.

burse states a portion of their costs for providing substance abuse, mental health, and in-home parenting services for up to 12 months with the purpose of making foster care unnecessary by addressing underlying family challenges. This bill increases the likelihood of positive short and long-term outcomes for both children and parents. Moreover, it would ensure that children who do need foster care are appropriately placed with family members, whenever possible.

Under current child welfare financing, when a family is struggling, the vast majority of federal support is only available if the state removes a child from his or her biological or adoptive home and places the child in foster care. Even though it is often less expensive and more effective, federal support for prevention services that can keep the child safe at home is extremely limited.

Despite the efforts of many loving foster parents, children who spend time in foster care face increased risks of substance abuse, homelessness, teen pregnancy and other negative outcomes. In addition, the nation is currently in the grips of an opioid epidemic, which according to many states is responsible for recent spikes in the need for out-of-home foster care placements after more than a decade of decline.

Too often, biological families, families that have adopted a child from foster care, and families where a relative is caring for the child have been told that the only way to get help is for the child to enter (or reenter) foster care. Under this bill, those families would all be eligible for services, if needed to keep the child safely at home. Only prevention services classified as “promising,” “supported,” or “well-supported,” based on an evidence structure developed by the California Evidence-Based Clearinghouse, would be eligible for reimbursement. As the American Academy of Pediatrics wrote after the bill was introduced:

[The Family First Prevention Services Act] not only recognizes the unique needs of children and families in adversity, but also makes great strides to meet them in a way that pediatricians can stand behind: through evidence-based, prevention-focused approaches. The bill offers states much-needed federal funding to support mental health, substance abuse and in-home parenting skills programs for families of children at-risk of entering foster care.<sup>4</sup>

H.R. 5456 ensures more foster children are placed with families by limiting federal reimbursement to only congregate care placements that are demonstrated to be the most appropriate for a child’s needs, subject to ongoing judicial review. In addition, to be eligible for federal payment, congregate care settings would be subject to licensing and accreditation standards to ensure they provide appropriate supervision and have the necessary clinical staff to address children’s needs. Upon introduction of H.R. 5456, the Children’s Defense Fund stated:

[The Family First Prevention Services Act] takes historic and long overdue steps to direct federal child welfare dollars to improve outcomes for vulnerable children and fami-

<sup>4</sup>American Academy of Pediatrics, *Letter to Chairman Kevin Brady, Ranking Member Sander Levin, Senate Finance Committee Chairman Orrin Hatch and Ranking Member Ron Wyden*, June 13, 2016.

lies . . . [It] takes important steps to ensure children who need foster care will be placed in the least-restrictive most family-like setting appropriate to their needs, and gives special attention to children whose emotional or other special needs require residential treatment.”<sup>5</sup>

The Juvenile Law Center agreed, stating in a letter to Members of the Committee “We strongly support the [Family First Prevention Services Act] and believe it would greatly improve the ability of child welfare agencies to keep children in their own homes and shorten their time in the system if they do enter.”<sup>6</sup>

H.R. 5456 further supports family relationships by allowing states to receive partial federal reimbursement for evidence-based Kinship Navigator programs to help children remain with family members whenever possible. Kinship Navigator programs provide information, referral, and follow-up services to grandparents and other relatives who unexpectedly assume caregiver responsibility for children who cannot remain safely with their parents.

The bill also keeps families together by reauthorizing the Regional Partnership Grant program that provides funding to state and regional grantees seeking to provide evidence-based services to prevent child abuse and neglect related to substance abuse, and updates grant requirements based on lessons learned from the most effective past grants. In addition, the bill updates the program to specifically address the opioid and heroin epidemic and leverages what’s been learned to ensure that new foster care prevention funding provided under the bill is used effectively.

The bill improves support for the transition to adulthood by updating the John H. Chafee Foster Care Independence Program to allow states the option of continuing to assist older former foster youth up to age 23, including providing education and training vouchers.

Included in the bill is the bipartisan House-passed H.R. 4472, the “Modernizing the Interstate Placement of Children in Foster Care Act” which encourages states to use electronic systems for information exchange when placing children across state lines. This reduces the amount of time foster children wait to be adopted, placed with relatives, or placed with foster parents. As Representative Todd Young (R-IN), sponsor of H.R. 4472, noted on the House Floor during debate and passage of the bill:

These are pilot programs that have achieved substantial reductions in the time it took to place these children into forever homes, reducing the time a child waited by 30%. For a child, that means a month and a half less time being shuffled from foster home to foster home, being taken in and out of school, without a set routine.<sup>7</sup>

Similarly, Representative Danny Davis (D-IL), the lead co-sponsor of H.R. 4472, commented during the same debate, “H.R. 4472 would accelerate the number of participating states in the short

<sup>5</sup> Children’s Defense Fund, *letter to Chairman Kevin Brady, Ranking Member Sander Levin, Senate Finance Committee Chairman Orrin Hatch, Ranking Member Ron Wyden, Human Resources Subcommittee Chairman Vern Buchanan, and Human Resources Subcommittee Ranking Member Lloyd Doggett*, June 13, 2016.

<sup>6</sup> Juvenile Law Center, *letter to Committee Staff*, June 13, 2016.

<sup>7</sup> Representative Todd Young, *Remarks during House Floor Passage of H.R. 4472, the “Modernizing the Interstate Placement of Children in Foster Care Act”*. March 22, 2016.

run, and ensure that all states participate in the long run . . . Modernizing the technology to increase efficiencies and quicken placements is commonsense and respects the urgency of finding permanent loving homes for children.”<sup>8</sup>

H.R. 5456 helps relative caregivers by requiring that states examine whether their licensing standards align with the best practices outlined in model family foster home licensing standards that set reasonable requirements for family homes that consider community norms and cultural differences as well as remove artificial barriers to family care. Further, the bill requires states to describe whether and how it has elected to waive licensing standards for relative foster family homes and what efforts are made to train caseworkers about waiving non-safety standards when licensing relatives to promote family placement. The bill also supports existing child welfare services by extending for five years the Promoting Safe and Stable Families and Child Welfare Services programs (jointly title IV–B of the Social Security Act) as well as the Adoption and Legal Guardianship Incentive Payments, which are set to expire at the end of fiscal year 2016.

Finally, H.R. 5456 delays the final implementation of additional federal reimbursement for the adoptions of infants and toddlers to allow for a Government Accountability Office review. The study will examine compliance with the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110–135) requirement that states reinvest the state funds freed up as a result of increased federal reimbursement for adoption. All adoptive families would remain eligible for either state or federally-funded services, and adoptive families with a child at risk of reentering foster care would be newly eligible for evidence-based prevention services provided under this bill.

### C. LEGISLATIVE HISTORY

#### *Background*

H.R. 5456, the “Family First Prevention Services Act of 2016,” was introduced on June 13, 2016, by Representative Vern Buchanan and was referred to the Committee on Ways and Means.

#### *Committee hearings*

The Ways and Means Subcommittee on Human Resources held a hearing on May 18, 2016 on parental substance abuse and its impact on the child welfare system. The hearing entitled, “*The Heroin Epidemic and Parental Substance Abuse: Using Evidence and Data to Protect Kids from Harm*” provided Members with the opportunity to examine the effectiveness of programs designed to address parental substance abuse and the potential for expanding these types of programs to keep more families together. Members also learned about state efforts to better use data to identify and serve children most at risk due to parental substance abuse or other risk factors.

As Subcommittee Chairman Buchanan (R–FL) remarked during his opening statement:

<sup>8</sup>Representative Danny Davis, *Remarks during House Floor Passage of H.R. 4472, the “Modernizing the Interstate Placement of Children in Foster Care Act”*, March 22, 2016.

According to data and news reports, parental drug abuse is a leading factor in why children enter foster care. Officials in multiple states have cited opioids, heroin, and other substances as a major reason for the increase in foster care caseloads, and federal data supports this view. In FY 2014, more than 25% of those children found to be victims of abuse or neglect had caregivers with drug abuse problems. Thankfully, many states, including Florida, are leading efforts to combat this crisis. Today we will learn about some of these approaches, including ways to serve families at home or in other settings so children can remain safely with their parents, or more quickly return home if they must enter foster care.”<sup>9</sup>

Throughout the past few Congresses, the House Ways and Means Human Resources Subcommittee held a number of hearings focusing on child welfare and related issues, including:

- *Improving Programs Designed to Protect At-Risk Youth*, June 16, 2011
- *Child Deaths Due to Maltreatment*, July 12, 2011
- *Increasing Adoptions from Foster Care*, February 27, 2013
- *Proposal to Reduce Child Deaths Due to Maltreatment*, December 12, 2012
- *Letting Kids Be Kids: Balancing Safety with Opportunity for Foster Youth*, May 9, 2013
- *Evaluating Efforts to Help Families Support their Children and Escape Poverty*, July 17, 2013
- *Preventing and Addressing Sex Trafficking of Youth in Foster Care*, October 23, 2013
- *Field Hearing on Efforts to Prevent and Address Child Sex Trafficking in Washington State*, February 19, 2014
- *Caring for Our Kids: Are We Overmedicating Children in Foster Care?*, May 29, 2014
- *Challenges Facing Low-Income Individuals and Families in Today’s Economy*, February 11, 2015

#### *Committee action*

The Committee on Ways and Means marked up H.R. 5456, the “Family First Prevention Services Act of 2016,” on June 15, 2016. The bill was ordered favorably reported to the House of Representatives, as amended, by a voice vote (with a quorum being present).

## **II. EXPLANATION OF THE BILL**

### SECTIONS 1 AND 2: SHORT TITLE AND TABLE OF CONTENTS

#### *Present law*

No provision.

#### *Explanation of provision*

These sections contain the short title of the bill, the “Family First Prevention Services Act of 2016,” and the table of contents.

<sup>9</sup> Chairman of the Ways and Means Human Resources Subcommittee Vern Buchanan (R-FL), *Opening Statement, Hearing on The Heroin Epidemic and Parental Substance Abuse and Using Evidence and Data to Protect Kids from Harm*, May 18, 2016.

*Reason for change*

The Committee believes that the short title and table of contents accurately reflect the policy actions included in the legislation.

*Effective date*

These provisions are effective upon enactment.

## Title I—Investing in Prevention and Family Services

## SECTION 101: PURPOSE

*Present law*

No provision.

*Explanation of provision*

This section contains the purpose of the title to enable states to use federal funds available under title IV–B and title IV–E of the Social Security Act to enhance their support to children and families and prevent foster care placements.

*Reason for change*

The Committee believes that the purpose reflects the policy actions included in the legislation.

*Effective date*

The provision is effective upon enactment.

## SUBTITLE A—PREVENTION ACTIVITIES UNDER TITLE IV–E

## SECTION 111: FOSTER CARE PREVENTION SERVICES AND PROGRAMS

*Present law*

Under title IV–E, states, territories and tribes with an approved title IV–E plan are entitled to federal support for a part of the cost of providing assistance to each eligible child and to each eligible child who leaves foster care for a new permanent home (via adoption or legal guardianship). Title IV–E funding may not be used to provide services, including those identified as needed to prevent a child’s placement in foster care [Sec. 474(a)(1), (2), (3), and (5) of the Social Security Act].

In general, under title IV–E states may only receive federal foster care support for children placed in foster care who were removed from families with very low income. States are permitted, however, to claim some federal title IV–E support for limited program administration work done concerning a child who is considered at imminent risk of entering, or re-entering, foster care. These children are referred to as “candidates.” To be a “candidate” a child must be “potentially eligible” for a title IV–E foster care maintenance payments (which includes meeting the income test) and the state must have begun court proceeding to remove the child from the home or be making reasonable efforts to prevent the child’s entry to foster care [Sec. 472(i)(2) of the Social Security Act].

For each child in foster care the state must develop a written case plan [Sec 471(a)(16) and Sec. 475(1) of the Social Security Act].



A state or tribe must have an approved title IV–E plan in order to receive federal support under title IV–E [Sec. 471(a) of the Social Security Act].

States must regularly report to HHS on the characteristics of each child in foster care (e.g., age, race/ethnicity, date of entry to care, placement setting in care and more) [Sec. 479 of the Social Security Act]. HHS is required to develop outcome measures related to children in foster care and it must annually report state-level performance on these measures [Sec. 479A of the Social Security Act].

Title IV–B authorizes funds to states and tribes for provision of services to children and their families and requires states to provide non-federal “matching” dollars to receive title IV–B funds. Under the Temporary Assistance for Needy Families (TANF) block grant (title IV–A) states and tribes receive funding that may be used to provide cash aid for low-income families with children and a range of services. To receive federal TANF funds, states are required to spend non-federal dollars up to a specific maintenance of effort (MOE) level in TANF or related programs. Under the Social Services Block Grant (SSBG) (title XX, Subtitle A) states receive funding that may be used for a variety of protective, preventative, and support services for children and adults, including the elderly. There are no federal matching or MOE requirements under SSBG.

Receipt of title IV–E aid or assistance may affect a child’s eligibility for other programs authorized under the Social Security Act.

States and tribes with an approved title IV–E plan are entitled to reimbursement for a part of the costs of providing title IV–E assistance and administering the program. The share of title IV–E program costs reimbursed by the federal government varies by state and/or type of program costs: For foster care maintenance, adoption and kinship guardianship assistance payments, it equals the Federal Medical Assistance Percentage (FMAP) of the given state or tribe and may range from 50%–83%. For program administrative costs (other than training) it is 50% in all states and tribes. For program training costs, it is 75% in all states and tribes.

Title IV–E funding may not be used to provide social services. It is generally not available until a child enters foster care and then, with very limited exceptions, only for children in foster care who meet federal eligibility requirements, including an income test (applied to the home from which the child was removed) [Sec. 474(a)(1), (2), (3), and (5) of the Social Security Act].

Effective with FY2010, the title IV–E program permits tribes (or tribal consortia) to directly operate a title IV–E program under an HHS-approved title IV–E plan. With limited exceptions, tribes wishing to receive direct federal title IV–E funding must meet each of the program rules and funding requirements made of states under title IV–E [Sec. 479B of the Social Security Act].

#### *Explanation of provision*

This section would amend the title IV–E foster care and permanency program to give states and tribes the option of receiving partial federal reimbursement for state expenditures to provide services that enable children to remain safely at home, or with a kin care provider. These prevention activities would include mental health and substance abuse prevention and treatment services, and

in-home parent skill-based programs (including parenting skills training, parent education, and individual and family counseling).

This section would provide partial federal reimbursement for the title IV–E prevention services and programs for any child determined to be at imminent risk of entering (or re-entering) foster care, any pregnant or parenting youth in foster care, and the parents and/or kin caregivers of such children and youth would be available for a period of no more than 12 months. No income test would apply.

Mental health and substance abuse prevention and treatment services and in-home parent skill-based programs would be eligible for title IV–E support only if they are offered in a trauma-informed manner; specified in the child’s written “prevention plan” (before they are provided to, or on behalf of, the child); and meet the definition of a “promising,” “supported,” or “well-supported” practice given in the bill. The amount and rigor of research necessary to meet the definition for each of these categories varies; however, to be included in any of these categories, one or more reliable study must have found that the practice is superior to an appropriate comparison practice in achieving improved child and parent outcomes on matters such as child safety and well-being, mental health, and substance abuse.

Additionally, a state opting to provide these services under its title IV–E plan would need to include a prevention component in its HHS-approved title IV–E plan. Among other things, the prevention component would need to specify the title IV–E prevention services and programs the state intends to provide and whether they are promising, supported, or well-supported; describe the outcomes the state intends to achieve; discuss how the state will evaluate its provision of each prevention service or program offered; describe how it will continuously monitor its provisions of these prevention services and programs and use the information learned to refine and improve its practices; and describe how child welfare workers will be trained and supported to effectively carry out title IV–E prevention services and supports. Further, the prevention component would need to be updated and resubmitted for approval every five years. The state would also need to assure that it would collect and report to HHS certain data on each child for whom, or on whose behalf, prevention services or programs are provided and, any information necessary to ensure the state meets the required maintenance of effort (MOE) spending level.

Title IV–E support for prevention services and programs that are promising, supported, or well-supported would be available beginning with the first day of FY2020 (October 1, 2019). For each of FY2020–FY2025 this federal support would equal 50% of the total cost to the state of providing title IV–E prevention services and programs. Beginning with FY2026 (October 1, 2025), the federal share of the total cost of providing title IV–E prevention services and programs would be set at the state’s Federal Medical Assistance Percentage or FMAP. A state’s FMAP—sometimes referred to as its “Medicaid matching rate”—is annually recalculated by HHS and may vary from 50%–83% (with states that have lower per capita income receiving higher federal support and vice versa). There would be no income test associated with claiming federal support for providing these services to children or their families. However,

in every fiscal year (beginning with FY2020), no less than one-half (50%) of a state's title IV-E prevention services and programs must be spent on well-supported practices in order for the spending to be eligible for federal reimbursement. Finally, federal support for program administration and training related to providing these title IV-E prevention services and programs, including program development and data collection and report costs, would be available at 50%.

A state taking the title IV-E prevention services and program option would be required to continue spending (outside of the title IV-E program) no less on "foster care prevention services, and activities" than it had spent for those services and activities in FY2014. This FY2014 spending level would be the state's required maintenance of effort (MOE), and no MOE spending could be used to access reimbursement for title IV-E prevention services and programs. To establish a state's MOE spending level, HHS would be required to determine which activities provided under the title IV-B child welfare services program, the Temporary Assistance for Needy Families (TANF) block grant, the Social Services Block Grant (SSBG) and other state programs are "foster care prevention services and activities." A state's MOE spending level would include federal, state, and local dollars spent for those foster care prevention services and activities under those programs.

Tribes with an approved title IV-E plan may elect to provide prevention and services programs on generally the same basis as states with an approved title IV-E plan. HHS would be required to specify the title IV-E requirements and prevention performance measures applicable to a given tribe, which to the "greatest extent practicable," must be consistent with requirements and performance measures applicable to states and must permit provision of services and programs adapted to the context and culture of the tribal communities served.

No later than October 1, 2018, HHS would be required to issue (and update as needed) guidance to states that includes a "pre-approved" list of services and programs that meet the promising, supported, and well-supported practices criteria of the title IV-E prevention services and programs component. Further, HHS would be required to offer technical assistance to states on implementing services and programs meeting the promising, supported, and well-supported practices criteria and must ensure establishment of a public clearinghouse to evaluate existing research and provide information on those practices and their outcomes. It may also carry out, or support, research, evaluation and data collection to assess the extent to which title IV-E prevention services and programs reduce the likelihood of foster care placement, increase use of kinship care, and improve child well-being and would be required to provide periodic reports to the House Ways and Means and Senate Finance Committees on the provision of title IV-E prevention services and programs. The bill would directly appropriate \$1 million a year to enable HHS to carry out these duties.

Beginning in FY2021, HHS would be required to establish prevention performance measures (based on median state performance) concerning the cost of prevention services and programs and the percentage of candidates for foster care who did not enter care

during the 12-month period in which they received title IV–E prevention services and programs (and for 12 months afterwards).

*Reason for change*

Currently, there are 31 title IV–E waiver projects approved or being implemented in 30 jurisdictions across the country. The Committee expects that the Secretary of HHS will use current statutory authority to extend state or tribal title IV–E waivers through the end of FY 2019, when necessary and requested by the state or tribe, to ensure continuity of prevention services provided to families and a smooth transition to prevention funding via title IV–E, and will serve as a resource for states and tribes during the transition.

A majority of these projects (22) have a strong focus on preventing entry or re-entry to foster care when possible, and, if a child enters or is in foster care, finding permanency for the child (usually through family reunification whenever possible). The remaining nine target services to children in foster care (or who have left foster care) and their parents, including four dedicated largely to reducing inappropriate use of congregate care. These projects targeting children in foster care also share a focus on engaging family and kin in care of their children whenever possible.

States have identified a range of program strategies to accomplish the goals of their waiver, a number of which have been previously evaluated as effective. Most commonly these include assessing the needs of the family using clinical and functional assessments (one or more, alone or combined) (18 states), including, for example, the Child and Adolescent Needs and Strengths Assessment, and the Ages and States Questionnaire. The purpose of these assessments, generally, is to better understand the particular strengths and needs of a child and family and to be able to individualize services accordingly.<sup>10</sup>

Many states indicate they use:

- Evidenced-based parenting education models (e.g., Positive Parenting Program (Triple P) or the Incredible Years (17 states);
- Therapeutic services, including those with specific awareness of effects of trauma, (e.g., Parent-Child Interaction Therapy or Multi-Dimensional Treatment Foster Care) (15 states);
- Practices that facilitate greater parent and family member input in case planning and management through the use of Family Group Decision Making, Family Team Conferencing, and other family engagement strategies (14 states); and
- Family preservation services (e.g., Homebuilders) (13 states).<sup>11</sup>

This list of interventions and specific models is by no means exhaustive, but is meant to suggest some of the more frequently used waiver interventions. Because the title IV–E waiver authority expires in FY2019, it is necessary for Congress to act to ensure states may continue to use federal dollars to support foster care prevention activities like those outlined above. The narrow expansion of

<sup>10</sup> Stoltzfus, E (March 2015). Memorandum to the Senate Finance Committee: Current Law Regarding Child Welfare Demonstration Authority and Project Approved.

<sup>11</sup> Stoltzfus, E (March 2015). Memorandum to the Senate Finance Committee: Current Law Regarding Child Welfare Demonstration Authority and Project Approved.

title IV–E under this legislation will allow states with existing title IV–E waivers to continue to invest in high quality prevention services while allowing those states without such waivers to take advantage of this new federal option. It is also the Committee’s expectation that states and tribes would provide some services which lasted more than 12 months, and would use the reimbursement for the first 12 months to reduce the state’s overall cost of serving those children and families.

Under the eligibility criteria for new prevention services in title IV–E, the Committee recognized that children may come to the attention of the child welfare system and be considered at imminent risk of entry into foster care in a wide variety of scenarios. Accordingly, the Committee intentionally did not attempt to provide an exhaustive list of the living situations and caregiver dynamics that would trigger eligibility for the evidence-based mental health, substance abuse, and parent skill-building services made available under this bill. The Committee believes the intent of this legislation is for states to use these new matching funds in the panoply of possible scenarios under which a child may be at imminent risk of entering foster care and would likely enter but for the provision of support services.

The following represents examples, but is by no means an exhaustive list, of the types of scenarios during which a state could claim a match for title IV–E prevention services on behalf of a child and his or her caregivers:

- When an adopted child is at risk of entering or re-entering foster care, these prevention services can come in the form of post-adoption supports and be made available so that such parents need not relinquish their parental right in order to access such services;
- When a child in a formal or informal kinship placement is at imminent risk of entering or re-entering foster care, these prevention services can be made available;
- When a child is living with his or her parents and is deemed as being at imminent risk of entering foster care, but a relative caregiver could step in to become the guardian if provided prevention services, such services can be made available;
- If a child at a young age was deemed a candidate for care and his or her caregiver received services under this bill and years later the child was again deemed at imminent risk of entry later in life, this bill would allow for the state to draw down prevention services under title IV–E at both points in the child’s and family’s lives; or
- When a child is living with his or her parents and is deemed as being at imminent risk of entering foster care, but can remain safely at home through the provision of prevention services.

Some children come to the attention of the child welfare system immediately at birth, when an infant is identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. Current law (the Child Abuse Prevention and Treatment Act or CAPTA) requires health care providers involved in the delivery or care of such infants to notify the child protective services system of the occurrence of such conditions. CAPTA also requires that

states assure that they are operating programs with policies and procedures for the development of a plan of safe care to ensure the safety and well-being of such infants following their release from the care of healthcare providers. However, a recent investigation revealed many states are not in compliance with federal law, largely attributed to a lack of resources associated with CAPTA.<sup>12</sup> This bill would encourage greater collaboration between child welfare and health care agencies by making substance use disorder treatment services available to parents when an infant is determined to be at imminent risk of entering foster care. Under the prevention services provided by this bill, states will be able to receive a federal reimbursement for substance abuse services for parents and infants when such children are deemed to be at imminent risk of entering foster care.

Foster youth are at heightened risk of teenage pregnancy and childbearing. The Midwest Evaluation of the Adult Functioning of Former Foster Youth found that half (48%) of the young women aging out of foster care have been pregnant by age 19 compared to only 27% of teen girls in the general population, and that young women aging out of foster care are more likely than their peers in the general population to have more than one pregnancy by age 19.<sup>13</sup> Another recent study revealed that, among girls in foster care in California at age 17, more than 1 in 4 had given birth at least once during their teens, and, of these women who had given birth before age 18, more than one-third had had a second teen birth.<sup>14</sup>

The Committee provided specific eligibility for prevention services for pregnant or parenting foster youth because these youth are at particularly high risk of bad outcomes affecting them and their children. It is also the Committee's expectation that many of the evidence-based interventions targeting this vulnerable group will involve expectant fathers.

The Committee acknowledges that the administrative framework of child welfare systems varies across states. While the majority of states are considered state administered, a significant number are county administered while a select few operate hybrid systems. Such frameworks can pose challenges when states are required under titles IV-B and IV-E to submit statewide plans, while service design and delivery may not be centralized at the state level. With respect to the new availability of title IV-E funding for foster care prevention services, the Committee strongly encourages each state to ensure that children in all counties and regions of the state have access to title IV-E services that will prevent entries into foster care. However, it is the intent of the Committee to permit services to be made available under county or hybrid administered systems and these services need not be made available uniformly statewide as a requisite for federal funding. While new state plan requirements under Sec. 471 state that these new prevention services can be made available at the option of the state, the state may

<sup>12</sup> Wilson, Duff and Shiffman, John. Helpless & Hooked: A Reuters Investigation (December 2015). <http://www.reuters.com/investigates/special-report/baby-opioids/>.

<sup>13</sup> Dworsky, A., & Courtney, M. (2010). The risk of teenage pregnancy among transitioning foster youth: Implications for extending state care beyond age 18. *Children and Youth Services Review*, 32, 1351–1356.

<sup>14</sup> Putnam-Hornstein, E., Cederbaum, J. A., King, B., & Needell, B. (November 2013). *California's Most Vulnerable Parents: When Maltreated Children Have Children*. Conrad N. Hilton Foundation: Agoura Hills, CA.

allow distinct political subdivisions (such as counties) to opt to provide substance abuse, mental health, and in-home parenting programs tailored to the respective subdivisions' needs and capacities.

*Effective date*

The provision is effective on October 1, 2016. Title IV–E funding for prevention services would be available beginning with the first day of FY2020 (October 1, 2019).

SECTION 112: FOSTER CARE MAINTENANCE PAYMENTS FOR CHILDREN WITH PARENTS IN A LICENSED RESIDENTIAL FAMILY-BASED TREATMENT FACILITY FOR SUBSTANCE ABUSE

*Present law*

A child may only be eligible for title IV–E foster care maintenance payments if the child has been removed from the home of his/her parent or other related caretaker (via court determination that the home of the child is “contrary to the welfare” of the child or via a voluntary placement agreement), the child meets low income criteria (based on income of home the child was removed from) and the child is placed in a licensed foster family home or child care institution. There is no limit on the length of time a child may be eligible for title IV–E foster care maintenance payments [Sec. 472(a)(1)(B), (2)(C), and (3) of the Social Security Act].

Each child in foster care must have a case plan specifying, among other things, the appropriateness of where the child is placed (lives) while in foster care [Sec. 475(1) of the Social Security Act].

Children who receive title IV–E foster care maintenance payments are deemed low-income for purposes of determining Medicaid eligibility [Sec. 473(b)(3)(B) of the Social Security Act].

*Explanation of provision*

This section would permit title IV–E foster care maintenance payment support, for up to 12 months, for a child in foster care who is placed with a parent in a licensed residential family-based treatment facility. To be eligible for these title IV–E payments, the child's placement with a parent in the treatment facility must be recommended in the child's case plan and the facility must incorporate trauma-informed parent education, parenting skills training, and counseling as part of its substance abuse treatment. No income test would apply for receipt of these time-limited title IV–E foster care maintenance payments and a child's receipt of these title IV–E foster care maintenance payment would not make a child eligible for Medicaid (under the title IV–E eligibility pathway), unless he or she meets low-income requirements applicable to all other children eligible for title IV–E foster care maintenance payments.

*Reason for change*

These programs have been found to be highly effective in supporting parent-child bonding and reducing substance abuse relapses, but are often underutilized. This provision ensures that there is no financial penalty to states if family substance abuse treatment is deemed the most effective option.

*Effective date*

The provision is effective on October 1, 2016.

SECTION 113: IV–E PAYMENTS FOR EVIDENCE-BASED KINSHIP  
NAVIGATOR PROGRAMS

*Present law*

Describes kinship navigator programs as supported under the now expired Family Connections grants [Sec. 427(a)(1) of the Social Security Act].

*Explanation of provision*

States would be permitted to claim 50% federal reimbursement of the cost of providing kinship navigator programs provided the HHS Secretary determines the programs are operated in accordance with promising, supported, or well-supported practices (as described in law with regard to foster care prevention activities) and that the programs: (1) establish information and referral links for kinship caregivers to other kin caregivers and support groups, eligibility and enrollment information for public benefits, and relevant training and relevant legal services; (2) are planned and operated in consultation with kin caregivers, youth raised by kin, organizations representing kin caregivers and relevant public and private agencies; (3) provide outreach to families providing kinship care; and (4) promote public and private partnerships to increase knowledge of the needs and kinship families, as well as families fostering parenting teens in foster care, to improve services for these families.

A state could claim this federal support for kinship navigator programs provided on behalf of any child (i.e., without regard to title IV–E foster care maintenance payment eligibility or “potential” eligibility).

*Reasons for change*

In general, children cared for by relatives experience increased stability, higher levels of permanency, greater safety, better behavioral and mental health outcomes, and are more likely to stay connected with siblings and communities. Kinship navigator programs support these kin caregivers by helping them access resources and supports like health care, housing, and income support that are necessary to meet the needs of the children they are raising and to meet their own needs as caregivers.

Given the estimates of the number of kinship families and the continued growth of kinship care driven by parental drug and alcohol abuse, there is great need for such supports. According to Census data, there are an estimated 2.7 million grandparent-headed households where grandparents are primary caregivers for their grandchildren (an estimated 65% of all kinship care is grandparents) with less than 120,000 in more formal kinship foster care.<sup>15</sup>

<sup>15</sup>Ellis, Renee R. and Tavia Simmons, “Coresident Grandparents and Their Grandchildren: 2012,” Current Population Reports, P20–576, U.S. Census Bureau, Washington, DC. 2014.



*Effective date*

The provision is effective on October 1, 2016.

## SUBTITLE B—ENHANCED SUPPORT UNDER TITLE IV—B

## SECTION 121: ELIMINATION OF TIME LIMIT FOR FAMILY REUNIFICATION SERVICES WHILE IN FOSTER CARE AND PERMITTING TIME-LIMITED FAMILY REUNIFICATION SERVICES WHEN A CHILD RETURNS HOME FROM FOSTER CARE

*Present law*

Under the Promoting Safe and Stable Families (PSSF) program, states receive funding that must be used to support four categories of services: (1) family support; (2) family preservation; (3) time-limited family reunification; and (4) adoption promotion and support services. Time-limited family reunification services are defined in the PSSF program as specific services provided to a child who has entered foster care within the last 15 months, and to the parent(s)/primary caregiver of such a child, to enable safe and timely family reunification [Sec. 431(7) and Sec. 432(a)(4) of the Social Security Act].

*Explanation of provision*

This section would rename “time-limited family reunification” services provided under the PSSF program as “family reunification services.” It would permit PSSF funding for family reunification services to be provided to a child in foster care (and to his or her parent(s)/ primary caregiver), regardless of the amount of time the child has been in foster care. It would also define these services to include those provided after a child and his/her parent(s) have been reunited, but only during the 15-month period that begins on the date the child returns home.

*Reason for change*

The Committee believes the time limit on these services has prevented some states from using their capped PSSF funds to support reunification that will result in good outcomes for children and families. The Committee believes that by removing this time limit it will not delay timelines for reunification.

*Effective date*

The provision is effective on October 1, 2016.

## SECTION 122: REDUCING BUREAUCRACY AND UNNECESSARY DELAYS WHEN PLACING CHILDREN IN HOMES ACROSS STATE LINES

*Present law*

States operating a title IV—E program (including the 50 states, the District of Columbia and Puerto Rico and any tribe operating such a title IV—E program) are required to have procedures to enable timely placement of children across state lines [Sec. 471(a)(25) of the Social Security Act].

Section 437 of the Social Security Act authorizes discretionary funding for the title IV—B Promoting Safe and Stable Families (PSSF) and describes required reservation of a part of those funds for particular grants or activities. For purposes of the PSSF pro-

gram, the term “state” means each of the 50 states and the District of Columbia, any of the five territories (Puerto Rico, Guam, American Samoa, U.S. Virgin Islands, and Northern Mariana Islands), as well as an Indian tribe or tribal organization (as defined in the Indian Self Determination and Education Act) [Sec. 431(a)(4) of the Social Security Act].

A state (including the 50 states District of Columbia, and Puerto Rico) and any tribe that operates a title IV–E program, is required to conduct fingerprint-based criminal records checks, using Federal Bureau of Investigation (FBI) databases, on all prospective foster or adoptive parents and certain relative guardians. They must also conduct checks of state child abuse registries for these individuals and any adults in the households of those individuals (including checks of any state registry where any of the individuals lived in the last five years) [Sec. 471(a)(20) of the Social Security Act].

Additionally, no later than September 29, 2017 any state (including the District of Columbia and Puerto Rico) or tribe operating a title IV–E foster care program must immediately (or in no case later than 24 hours) report information it receives to law enforcement authorities on children or youth identified as sex trafficking victims; and missing or abducted children. Additionally, as of September 29, 2017, these same title IV–E agencies must immediately report information they receive on missing and abducted children to the National Center for Missing and Exploited Children [Sec. 471(a)(34) and (35) of the Social Security Act].

*Explanation of provision*

No later than October 1, 2026, this provision would require a state, territory, or tribe operating a title IV–E program, to include use of an electronic interstate case processing system as part of its procedures for timely placement of children across state lines.

Additionally, this section would require HHS to reserve a total of \$5 million in any FY2017 discretionary funding provided for the PSSF program. The funding, which would remain available for five years (FY2017–FY2021) would allow HHS to make grants to states, tribes, and territories that successfully apply. The funds would need to be used to help grantees connect with an interstate electronic case-processing system and to enable them to achieve safe and appropriate interstate placements for children in less time and at less cost. This provision would require HHS to report to Congress (within one year of last grant awarded for this purpose) on the progress made by states in achieving those purposes.

HHS, in consultation with states and the Secretariat for the Interstate Compact on the Placement of Children, must assess how the electronic interstate case-processing system may be used to improve a title IV–E agency’s ability to quickly comply with required background checks for prospective foster and adoptive parents and guardians, including completing checks of child abuse and neglect registries. It would also help states connect with federal and state law enforcement agencies and judicial agencies to better protect missing or trafficked children and to simplify title IV–E-agency reporting to federal agencies of missing and trafficked children that come to its attention (required as of September 29, 2016).

*Reason for change*

When children in foster care cannot remain safely at home, they deserve to be placed in a setting that is best for them, regardless of whether that home is within their state or in another state. However, when children would do best with an adoptive family, relative, or foster parent in another state, they often must wait longer than if they stayed in the same state, in part due to the outdated, labor-intensive process many states use when transmitting information across state lines. When placing children across state lines, states must exchange multiple documents, such as court orders, case plan information, birth certificates and other information. In most states, this exchange is carried out by printing, copying, and mailing physical copies of documents between states—a labor intensive and time consuming process that keeps children from moving quickly into the appropriate home.

Beginning in November 2013, five states (Florida, Indiana, Nevada, South Carolina, and Wisconsin) and the District of Columbia began a pilot project to test the National Electronic Interstate Compact Enterprise (NEICE), a system developed to aid states in exchanging data and documents between different jurisdictions when placing children across state lines. NEICE is a web-based electronic case-processing system that supports the administration of the Interstate Compact on the Placement of Children (ICPC), an agreement between states establishing uniform legal and administrative procedures governing the interstate placement of children. Pilot states saw substantial improvements in the process used to place children with adoptive parents, relatives, or foster parents in another state. A final evaluation of the pilot project found the electronic system produced the following outcomes:

- Children are placed in the right homes more quickly: On average, states using this electronic system reduced the time it takes to place a child in a home in another state by over 30%. This means children waited on average one and a half months less to be placed in the right home.
- Child welfare caseworkers spend less time on paperwork: A survey of states participating in the pilot showed states could reduce the time they spend on the placement process by 10%.
- States eliminate mailing and printing costs by using the electronic system:

States could realize significant savings by switching from a paper-based process to an electronic process. Based on estimates from pilot states, states spend more than \$1.6 million annually on copying and mailing of documents related to cases in which children are placed in another state.<sup>16</sup>

Children should not spend extra weeks waiting to be placed in the appropriate home simply because of an antiquated process used to exchange information across state lines. To address this problem, this section requires states to connect to this electronic case-processing system to reduce the amount of time children wait to be adopted, placed with relatives, or placed with foster parents when

<sup>16</sup>Supporting Permanent Placements of Children in Foster Care Through Electronic Records Exchange: National Electronic Interstate Compact Enterprise (NEICE), Final Evaluation Report. June 29, 2015. Available online: <http://www.aphsa.org/content/AAICPC/en/actions/NEICE.html>.

they are going to a home in another state. This section would also provide states with funding to connect to this system more quickly, and HHS would evaluate the impacts of states' use of this system to determine how it has improved the process of placing children in homes across state lines.

*Effective date*

The provision is effective on October 1, 2016.

SECTION 123: ENHANCEMENTS TO GRANTS TO IMPROVE WELL-BEING OF FAMILIES AFFECTED BY SUBSTANCE ABUSE

*Present law*

This section authorizes “Targeted Grants to Increase the Well-Being of, and to Improve the Permanency Outcomes for, Children Affected by Substance Abuse.” In each of FY2012–FY2016, HHS was required to award grants to public and/or private agencies that establish collaborative partnerships for services and supports designed to improve outcomes for children in, or at risk of, placement in foster care because of parental substance abuse [Sec. 437(f) and (f)(3)(A) of the Social Security Act].

This section defines “regional partnership” as a collaborative agreement, established on an intrastate or interstate basis, between two or more public or private entities and individuals, including—child welfare agencies and providers, substance abuse prevention and treatment agencies and providers, community health and mental health services providers, courts, judges, law enforcement agencies, and school personnel.

This section stipulates that the state child welfare agency must be a partner in every regional partnership formed, unless the partnership includes an Indian tribe or tribal consortium (in which case participation of state child welfare agency is optional). It also stipulates that a regional partnership may not consist solely of the state child welfare agency and the state agency that administers the substance abuse prevention and treatment services block grant [Sec. 437(f)(2) of the Social Security Act].

Out of funds reserved for these grants in each of FY2012–FY2016, HHS is required to make grants to regional partnerships. No annual amount awarded to a regional partnership may be less than \$500,000 nor more than \$1,000,000 [Sec. 437(f)(2) of the Social Security Act]. Grants to regional partnership must be awarded for an expected period of no less than two years and no more than five years. However, a grantee may request a two-year extension of the initial grant period, which would provide payments for a maximum of 7 years. Additionally, a regional partnership may seek more than one grant [Sec. 436(f)(3) of the Social Security Act].

To be eligible for a grant, a regional partnership must submit a written application to HHS that meets specific applications requirements [Sec. 437(f)(4) of the Social Security Act]. In awarding the grants on a competitive basis, HHS must take into consideration certain factors [Sec. 437(f)(7) of the Social Security Act].

Regional Partnership Grant (RPG) funds may be used for family-based comprehensive long-term substance abuse treatment services, early intervention and prevention services, child and family counseling, mental health services, parenting skills training, rep-

lication of successful models for providing family-based comprehensive long-term substance abuse treatment services [Sec. 437(f)(5) of the Social Security Act].

This section required the HHS Secretary to establish indicators to assess the performance of regional partnerships. In establishing the indicators, the HHS Secretary was required to consult the Assistant Secretary for the Administration for Children and Families and the Administrator of the Substance Abuse and Mental Health Services Administration, as well as with certain state and tribal representatives [Sec. 437(f)(8) of the Social Security Act]. Regional partnership grantees must submit annual reports to the HHS Secretary regarding the services provided and activities carried out with the grant funds [Sec. 437(f)(9) of the Social Security Act].

In each of FY012–FY2016, the HHS Secretary was permitted to use no more than 5% of funds reserved or made available for the RPGs for expenses related to administering the grants, including salaries.

*Explanation of provision*

This section would require HHS to continue to award these competitive RPG funds for five years (FY2017–FY2021). The section heading would be changed to “Targeted Grants to Implement IV–E Prevention Services, Improve the Well-Being of, and Improve Permanency Outcomes for, Children and Families Affected by Heroin, Opioids and Other Substance Abuse” to suggest use of RPGs to address needs of children and families affected by heroin and opioid substance use disorders, to help implement effective title IV–E prevention services, and to focus on improved outcomes for families, including children and their parents.

This section would stipulate that partnerships may be established on a statewide basis and it would remove the prohibition on state-agency only partnerships. This section would maintain all current law entities or individuals listed as optional partners.

It would also require that in addition to the state child welfare agency, every funded partnership must include the state agency that administers the federal substance abuse prevention and treatment block grant. Further, if the partnership intends to serve children placed in out-of-home care, the court (or administrative office of the court) that handles child abuse and neglect proceedings in the region must also be a partner. Partnerships led by a tribe or tribal entity may include tribal court entities in place of other judicial representatives in the collaboration and, as with current law, would be permitted, but not required, to include the state child welfare agency.

Grants would continue to be made for no more than five years (with the possibility of a two-year extension for a total of seven years). However, this section would stipulate that grant funding must be dispersed in two phases: planning (no more than two years total) and implementation. Further, it would provide that an annual award of federal RPG funds to a grantee may not be more than \$1,000,000 nor less than \$250,000 (except that a grantee could not receive more than \$250,000 across its total planning phase). Additionally, in any fiscal year, a grantee could not be awarded funding until HHS determined that the sufficient progress

was being made toward meeting project goals and members of the partnership were coordinating to a “reasonable degree.”

This section would revise RPG application requirements to ensure that the regional partnerships intend to focus on improving the well-being of families as a whole (children and parents) and to facilitate implementation of evidence-based prevention services under title IV–E. Applicants would also be required to describe how they intend to sustain the work of the partnership after the end of RPG funding, including through use of title IV–E prevention services. Further it would permit HHS to require applicants to provide other information, as needed, to determine that activities are planned and implemented consistent with evidence-based practices. The section would instruct HHS when making these competitive awards to consider if the applicant partnership has a track record of successful collaboration among child welfare, substance abuse disorder treatment and mental health agencies.

This section would also maintain the ability of RPGs to use funds for each of these services or activities, including for long-term substance use disorder treatment and would stipulate that this may include medication-assisted treatment and in-home treatment and recovery.

After reviewing current performance indicators and lessons learned from prior rounds of RPG awards and after consulting with ACF, SAMHSA and stakeholders, the HHS Secretary would be required to establish a set of core performance indicators (related to child safety, parental recovery and parenting capacity, and family well-being) to assess grantee performance.

Additionally, regional partnership grantees would be required to provide semi-annual reports to HHS that include information on the services and activities carried out with the funding, including the number of children, adults, and families served, progress made toward meeting program goals, and other information as determined necessary by HHS, including data on performance indicators included in a grantee’s evaluation.

Finally, this section would continue this limitation on use of grant funds for administrative expenses (no more than 5%) for each of FY2017–FY2021.

#### *Reason for change*

Research and practical experience have long demonstrated the prevalence of parental substance use disorders among families in the child welfare system. Historically, a lack of coordination and collaboration has hindered the ability of child welfare, substance use disorder treatment, and family/dependency court systems to fully support these families. As families involved with child welfare have complex needs, improving outcomes for parents and children requires a coordinated effort among systems.

Past studies have shown that between 60 and 80% of substantiated child abuse and neglect cases involve substance use by a custodial parent or guardian.<sup>17</sup> A recent summary of research shows great variation in estimates of substantiated child abuse and neglect cases involving substance use by a custodial parent or guard-

<sup>17</sup>Young, N., Boles, S., & Otero, C. (2007). Parental substance use disorders and child maltreatment: Overlap, gaps, and opportunities. *Child Maltreatment*, 12, 137–149. doi: 10.1177/1077559507300322.

ian, with some regional prevalence estimates being higher than national estimates.<sup>18</sup> Sixty-one percent of infants and 41% of older children involved in the child welfare system have at least one parent who is using drugs or alcohol.<sup>19</sup> These parents are often unable to provide a stable, nurturing home environment, they have a low likelihood of successful reunification with their children, and their children tend to stay longer in the foster care system than the children of parents without substance use disorders.<sup>20 21 22</sup>

The Committee believes that these realities make it imperative that child welfare service agencies, substance use disorder treatment providers, courts, and community partners work together to address the needs of parents to prevent placement, reunify with their children, or potentially play another supportive role in their child's life. Identifying and addressing the needs of the children is equally important and requires strong partnerships with public and community-based service providers. For these reasons, the Committee is taking key steps to ensure states have permanent, dedicated funding under title IV–E of the Social Security Act for services to keep children safely with families, including substance abuse treatment. The reauthorization of the Regional Partnership Grants included in this bill is meant to help states and tribes plan for the new option to use title IV–E to fund evidence-based prevention services including substance abuse treatment.

Past phases of RPGs can be used to improve the grant-making process in the future, including lessons on the value of providing technical assistance to the grantees, conducting an annual in-person training meeting and annual grantee meeting designed to share information and advance practice among grantees. The Administration for Children and Families (ACF) should prioritize state-level grants. Of particular importance is the need for ACF to make grants using two phases a planning phase and an implementation phase and it is the Committee's intent that ACF distribute grants in such a manner to ensure grantees are making sufficient progress in regard to building their partnership, providing services to families, and improving safety, permanency well-being, and recovery outcomes. With respect to the planning phase of the grant, ACF should solicit and take into consideration information on what the grantee's plans are related to:

- Establishing standardized screening protocols, or other methods to identify families in need of substance use disorder prevention and treatment services including infants identified with prenatal substance exposure;
- Ensuring early access to assessment and treatment services such as securing expert consultation on cases involving substance use disorders, conducting outreach and methods to

<sup>18</sup>Seay, K. (2015). How many families in child welfare services are affected by parental substance use disorders? A common question that remains unanswered. *Child Welfare*, 94, 19–51.

<sup>19</sup>Wulczyn, F., Ernst, M., & Fisher, P. (2011). Who are the children in out-of-home care? An epidemiological and developmental snapshot. Chicago: Chapin Hall at the University of Chicago. Retrieved from [http://www.chapinhall.org/sites/default/files/publications/06\\_08\\_11\\_Issue%20Brief\\_F\\_1.pdf](http://www.chapinhall.org/sites/default/files/publications/06_08_11_Issue%20Brief_F_1.pdf).

<sup>20</sup>Kaplan, C., Schene, P., De Panfilis, D., & Gilmore, D. (2009). Shining light on chronic neglect. *Protecting Children*, 24, 1–7.

<sup>21</sup>Gregoire, K.A., & Schultz, D.J. (2001). Substance-abusing and child welfare parents: Treatment and child placement outcomes. *Child Welfare*, 80, 433–452.

<sup>22</sup>Brook, J., & McDonald, T. (2010). The impact of parental substance abuse on the stability of family reunifications from foster care. *Child and Youth Services Review*, 31, 193–198. doi: 10.1016/j.childyouth.2008.07.010.

engage and retain parents in treatment, and providing priority access to assessment and treatment of families in the child welfare system;

- Increasing management and treatment of recovery services and monitoring compliance such as co-location of services, specialized recovery case management services, and ensuring comprehensive treatment programs tailored to individual parent and child needs;
- Ensuring access to family centered services, including effective evidence-based parenting programs focused on enhancing the parent and child relationship and the prevention needs of children;
- Ensuring appropriate judicial oversight including providing more frequent judicial or administrative reviews of treatment progress and compliance with case plans regarding participation in substance use disorder treatment;
- Having a system for appropriate response to behavior of participants, such as evidence-based contingency management approaches using appropriate incentives and sanctions;
- Improving collaboration between courts and child welfare and substance use disorder treatment agencies providing services to families with substance use disorders;
- Identifying infants with prenatal substance exposure, a description of any special efforts to identify and assess the extent of the problem and any joint activities between two or more members of the eligible partnership that focus specifically on the needs of such infants, such as efforts to monitor and reduce infant fatalities among families affected by parental substance use disorders; and
- Sustaining the services provided by or activities funded under the grant after the conclusion of the grant period, including through the use of other funds provided to the state for child welfare and substance abuse prevention and treatment services.

With respect to the implementation phase of the grant, ACF should solicit a description of the grantee plans to use any funds to address comprehensively and in a timely manner the needs of families with substance use disorders by building collaborative approaches including:

- Cross training of staff, data collection and information sharing such as arrangements for addressing confidentiality of records;
- Identification of funding barriers and sustainability plans for services and activities after the conclusion of the grant period;
- In the case of a partnership grant in which the state agency is the lead, expanding the number of jurisdictions in the state where the activities under the plan will be implemented, the plans for expanding the percentage of families in need who receive these services during the implementation phase of the grant, and the methods to measure progress toward these goals; and
- Measuring the performance of the state agencies in implementing the plan in accordance with performance and evaluation requirements established by the Secretary.



With respect to performance indicators, the Secretary should review the established performance indicators and knowledge gained from other grant programs to establish a set of core indicators, which may include the following:

- Safety, including whether children remain at home and any re-occurrence of child maltreatment;
- Permanency, including the average length of stay in foster care, re-entries to out-of-home placement, timeliness of reunification, and timeliness of permanency;
- Recovery, including access to treatment, retention in and completion of substance use disorder treatment, substance use; and
- Child, adult, and family well-being, including parenting capacity, family relationships and functioning.

When assessing the performance of grant recipients the Committee believes the Secretary should consider:

- Using each of the core indicators outlined above and any other performance indicators the Secretary considers appropriate;
- Whenever possible, using existing data systems;
- Using appropriate comparison groups to analyze outcomes; and
- Assisting grantees in establishing and analyzing performance indicators to ensure local capacity to change practice and policy based on outcomes achieved.

*Effective date*

The provision is effective on October 1, 2016.

SUBTITLE C—MISCELLANEOUS

SECTION 131: REVIEWING AND IMPROVING LICENSING STANDARDS FOR PLACEMENT IN A RELATIVE FOSTER FAMILY

*Present law*

States are required to set and maintain licensing standards for foster family homes and child care institutions. They are generally free to set these standards as they choose so far as the standards are “reasonably in accord” with standards recommended by relevant national organizations with regard to admission policies, safety, sanitation, and protection of civil rights, and provided they permit the use of the “reasonable and prudent parenting standard,” defined in federal law [Sec. 471(a)(10) of the Social Security Act].

States must generally apply the same licensing standard to any foster family receiving child welfare support, although, on a case-by-case basis, they may choose to waive “non-safety” standards (e.g. size of bedroom) for a child placed in a relative foster family home [Sec. 471(a)(10)(D) of the Social Security Act].

*Explanation of provision*

This section would require HHS to identify reputable model standards for licensing foster family homes not later than October 1, 2017. No later than April 1, 2018 each state would be required to submit information to HHS on whether its own licensing standards are fully consistent with the model standards identified by

HHS, and, if not, why this inconsistency is appropriate for the state.

No later than April 1, 2018, each state would also be required to submit information to HHS on whether it uses this authority to waive non-safety standards for relative foster family caregivers. If a state does not use this authority, it would be required to give the reasons why this is the case. If the state does use this waiver authority, it would need to indicate which standards are most often waived and whether the state has developed a process or has provided tools to assist caseworkers in using this waiver authority. It would further need to describe how caseworkers are trained in using this waiver authority, including any steps taken to improve the training on the waiver process.

*Reason for change*

Under current law, states can waive non-safety licensing standards when placing children with relatives. However, states do not appear to be taking full advantage of this provision in the law. The Committee understands caseworkers may not be appropriately trained regarding their ability to waive certain standards when licensing relatives, and that this has resulted in delays in placing children in these families. This provision would ensure states take proactive steps to speed the process of licensing relatives, that they follow model standards for these placements (or explain why they deviate from these standards), and that they provide appropriate tools to caseworkers to simplify the process so more children can live safely with family members when they cannot stay in their own home.

*Effective date*

The provision is effective upon enactment.

SECTION 132: DEVELOPMENT OF A STATEWIDE PLAN TO PREVENT  
CHILD ABUSE AND NEGLECT FATALITIES

*Present law*

Beginning in 2012, and as part of meeting the requirements to receive federal funding under the title IV–B Child Welfare Services (CWS) program, state child welfare agencies were required to describe for HHS the sources of information they used to compile data on child maltreatment deaths. Further, if the compilation did not include information on child maltreatment deaths from the state vital statistics department, child death review teams, law enforcement agencies, or offices of medical examiners or coroners, the state child welfare agency was required to describe why this information was not included and how the state would include it [Sec. 422(b)(19) of the Social Security Act].

*Explanation of provision*

This section would rewrite this CWS state plan requirement to require the state child welfare agency to document the steps it takes to track and prevent child maltreatment deaths, by describing: (1) how it compiles complete and accurate information on child maltreatment deaths by gathering information from relevant organizations in the state (including state vital statistics department,

child death review teams, law enforcement agencies, or offices of medical examiners or coroners); and (2) how it has developed and implemented a comprehensive, statewide plan to prevent child maltreatment fatalities, that involves and engages public health and law enforcement agencies, the courts, and other relevant public and private agency partners in the state.

*Reason for change*

Under Public Law 112–275, the “Protect Our Kids Act of 2012”, Congress established a Commission to End Child Abuse and Neglect Fatalities. Earlier this year, the Commission published its recommendations. Section 132 of this bill was added in response to Recommendation 5.2 of the report, which suggested Congress legislate a state plan requirement under title IV–B related to abuse and neglect fatalities. Specifically, recommendation 5.2a states that:

Through legislation, Congress should require states to develop and implement a coordinated, integrated, and comprehensive state plan to prevent child maltreatment fatalities. The state fatality prevention plan should specify how the state is targeting resources to reach children at highest risk for fatalities, as identified by the state’s data mining effort (as described in Chapter 2).

Legislation should specify certain safety benchmarks, and all state plans should address common risk factors for child abuse and neglect fatalities, but legislation should allow states local flexibility in designing their plans to best meet the unique needs of their population and build on resources already in place. States should be directed to utilize evidence-based strategies and be responsible for evaluating their effectiveness. The federal government could provide targeted funds to spur innovation and to help states test and evaluate their strategies. State child fatality prevention plans should take a comprehensive, early intervention approach, with CPS being one of multiple key partners. Core components of state plans should include the following:

1. Data. The plan’s action strategy must be driven by data (including state needs assessments and cross-system data sharing). Data tracking must include the following:

- a. Use of three or more data sources in tracking fatalities and life-threatening injuries

- b. Identification of the ZIP codes and/or census tracts with high rates of child abuse and neglect fatalities and life-threatening injuries

2. Partners. The state must have a plan to engage public-private partners, community organizations, faith-based communities, and families. For example, if parental substance use is identified as a significant risk factor for fatality, the plan should reflect coordination and shared accountability between CPS and the state’s substance abuse services.

3. Clear interagency roles and responsibilities. The plan should reflect clear and effective programmatic coordination to address risk factors identified through data mining. The plan also may include requests for flexibility in rel-

evant funding streams to better address documented needs.

4. Recommendations from fatality reviews and life-threatening injury reviews. Reviews of child maltreatment fatalities and life-threatening injuries will be the basis for recommendations and for establishing cross-system priorities for correcting problems identified and achieving progress toward these priorities.

State public health agencies (including title V programs) should be required through their federal authorizing legislation to assist state child welfare agencies in identifying children most at risk of maltreatment and contribute to the development of the plan for addressing their needs. This plan should be shared with the state court and included in training programs for state court improvement directors using funds already provided under the Court Improvement Program. Congress should direct HHS to provide technical assistance to states in identifying children at greatest risk for child abuse and neglect fatalities and provide training resources.

While this legislation would only require states to include a description of the steps it is taking to develop and implement a comprehensive, statewide plan to prevent child fatalities that involves and engages relevant public and private agency partners, it is the intent of the Committee that states look to the recommendations of the Commission to End Child Abuse and Neglect Fatalities in carrying out this new state plan requirement.

*Effective date*

The provision is effective on October 1, 2016.

SECTION 133: MODERNIZING THE TITLE AND PURPOSE OF TITLE IV–E

*Present law*

Title IV–E is formally headed in the statute as “Federal Payments for Foster Care and Adoption Assistance” and the purposes of the program funding are described as for foster care maintenance payments and adoption assistance for children with special needs (described as available as of October 1, 1980), and for independent living services for youth expected to age out of care or those who have aged out of care. Since October 2008, states and tribes that opt to do so may also use title IV–E funds to provide kinship guardianship assistance to eligible children.

*Explanation of provision*

This section would change the formal heading of title IV–E to “Federal Payments for Foster Care, Prevention, and Permanency,” to reflect the authorization of title IV–E prevention services and programs, included in this bill, as well as the multiple forms of permanency support currently available under title IV–E (i.e., adoption assistance and kinship guardianship assistance).

Consistent with these changes, this section would amend the purposes of the funding authority to include the currently authorized kinship guardianship assistance and to add the foster care prevention services, programs and assistance that would be author-

ized in this bill. This provision would strike the reference to October 1, 1980.

*Reason for change*

This change to the title is needed to reflect the updated purpose of title IV–E of the Social Security Act, which is to not only support foster care and adoption, but also to prevent the need to place children in foster care, as well as ensure children find permanent homes.

*Effective date*

The provision is effective upon enactment.

SECTION 134: EFFECTIVE DATES

*Present law*

No provision.

*Explanation of provision*

Most provisions in this title would generally be effective on October 1, 2016 (FY2017), including the provisions related to title IV–E support for evidence-based kinship navigator programs; title IV–E foster care maintenance payments for children placed with a parent(s) in a licensed residential family-based treatment center; the change in definition and name of the title IV–B PSSF service category now known as “time-limited family reunification services;” authorization of grants related to the electronic interstate case-processing system; revisions to the Regional Partnership Grants; and development of a statewide plan to prevent child abuse and neglect.

Although the provisions related to title IV–E prevention services and programs would also be enacted into law as of October 1, 2016, the bill stipulates that no title IV–E funding for those services or programs would be available before October 1, 2019 (FY2020). Similarly, while the requirement for states to include use of an electronic interstate case-processing system in their timely interstate placement procedures would be included in the law as of October 1, 2016, the bill would stipulate that this requirement does not need to be met until October 1, 2026 (FY2027).

Further, the conforming changes to the title IV–E purpose and heading are effective on date of the bill’s enactment, as are the amendments related to national model licensing standards for foster family homes. However, the provision related to licensing standards stipulate later required (i.e., HHS to identify reputable model licensing standards no later than October 1, 2017 and states to respond as of April 1, 2018).

Finally, if the HHS Secretary determines that a state must enact legislation (other than appropriations) to come into compliance with any new title IV–B or title IV–E requirement in this title, then the state would not need to meet the requirement until the first day of the first calendar quarter that occurs after the close of the first state legislative session that begins after date of enactment of the Family First Prevention Services Act of 2016. Further, if the HHS Secretary determines that a tribe requires time to take actions necessary to comply with any of the new title IV–E or title

IV–B requirements, the Secretary must provide the tribe with the additional time needed (amount determined by HHS) to meet these requirements.

*Reason for change*

This section sets the effective date of the provisions in title I, as well provides states and tribes with the time necessary to make conforming changes to their laws as a result of this title.

*Effective date*

The provision is effective upon enactment.

Title II—Ensuring the Necessity of a Placement that is Not in a Foster Family Home

SECTION 201: LIMITATION ON FEDERAL FINANCIAL PARTICIPATION FOR PLACEMENTS THAT ARE NOT IN FOSTER FAMILY HOMES

*Present law*

A child may be eligible for title IV–E foster care maintenance payments if the child is placed in a foster family home or a child-care institution [Sec. 472(a)(2)(C) of the Social Security Act].

For purposes of the title IV–E foster care program, a foster family home is defined as a home for children that meets the licensing or approval standards for such homes established by the state (or tribe) where it is located [Sec. 472(c) of the Social Security Act].

A child care institution is defined, generally, as an institution that provides foster care and meets the licensing or approval standards for such institutions established by the state (or tribe where it is located). However, if a child in foster care is at least 18 years of age, he or she may be placed in a supervised independent living setting that meets standards established by the HHS Secretary (and does not have to meet state licensing rules). Additionally, a child care institution may be a private or public institution, but if it is a public institution, it may not house more than 25 children. Finally, the term child care institution must never include detention facilities, forestry camps, training schools, or any facility operated primarily for the detention of children determined to be delinquent [Sec. 472(c) of the Social Security Act].

The highest court in each state operating a title IV–E program may apply for Court Improvement Program (CIP) funding to improve how courts in the state handle child abuse and neglect cases, including carrying out responsibilities under state laws that implement title IV–E program requirements [Sec. 438 of the Social Security Act]. In order to be eligible for title IV–E foster care support, the placement setting for a child in foster care must be determined by the state child welfare agency. [Sec. 472(a)(2)(B) of the Social Security Act]. A court may disapprove a placement and may recommend a setting, but the placement determination must be made by the title IV–E agency [45 CFR 1356.21 (g)(3)].

*Explanation of provision*

Under this section, title IV–E foster care maintenance payment support would not be available for more than two weeks for an otherwise eligible child who is placed in a setting that is not a foster family home, unless the placement setting is a—

- “Qualified residential treatment program” (provided additional requirements are met);
- Setting specializing in providing prenatal, postpartum, or parenting supports for youth;
- Supervised independent living setting (provided the child was at least 18 years of age); or
- Licensed residential family-based treatment center (provided the child was placed with the parent and had not been in this setting for more than 12 months).

For an otherwise title IV–E eligible child placed in a qualified residential treatment center, title IV–E foster care maintenance payment support would not be available unless within 30 days of that placement a trained professional or licensed clinician (who is a “qualified individual”) has assessed the child’s strengths and needs and determined the appropriateness of the placement.

Title IV–E foster care maintenance payments would remain available to an otherwise eligible child for the time it takes to transition a child from a qualified residential treatment program to a different placement, of for 30 days, whichever is shorter. This includes placement setting transitions that must occur if an assessment finds that the program is not an appropriate placement for the child, or a court disapproves of the placement, or the child is found ready to move to a family setting (including biological, relative/kin, adoptive, or foster).

Under this section, a “qualified residential treatment program” means a program that meets all the following requirements:

- Has a trauma-informed treatment model designed to appropriately address the clinical or other needs of children with serious emotional or behavioral disorders or disturbances and is able to implement the specific treatment identified as necessary for a child placed in the program.
- Has registered or licensed nursing and other licensed clinical staff onsite during business hours, available 24/7, and who provide care within the scope of their practice (as defined by state law).
- Facilitates outreach to the child’s family members and their participation in the child’s treatment program to the extent appropriate and in the child’s best interest, documents how this is done (and how sibling connections are maintained), and maintains contact information for biological family and fictive kin of the child;
- Provides discharge planning and family-based after-care supports for at least six months after the child is discharged from the program, and continues during this period to integrate family members in the treatment program as appropriate.
- Is licensed in accordance with the state standards for child-care institutions providing foster care and accredited by any of the following agencies: the Council on Accreditation, the Joint Commission on Accreditation of Healthcare Organizations; the Commission on Accreditation of Rehabilitative Facilities; and any other independent, not-for-profit accrediting organization approved by the HHS Secretary.

This section would additionally stipulate that a foster family home must be the home of an individual or family providing 24-

hour substitute care for not more than six children placed in out-of-home care. States would be permitted to place more than six children in a foster family home to allow any of the following: a pregnant or parenting youth in foster care to remain with his or her child; siblings to remain together; a child with an established meaningful relationship with the family to remain with the family; or a family with special training or skills to provide care to a child with a severe disability. Finally, it would require that the individual must reside in the home with the children who are in foster care, and must be licensed or approved as a foster parent by the state, including being deemed capable by the state of adhering to the “reasonable and prudent parent standard.” (The home may be rented or owned.)

Additionally, this section would rewrite and re-organize the definition of a child care institution without making substantive changes.

As a condition of eligibility for Court Improvement Program funds, this section would require a highest state court to provide training for judges, attorneys and other relevant legal personnel on federal child welfare policies and payment limitations with respect to placement of foster children in settings other than foster family homes.

Finally, this section would require a title IV–E agency (including the public child welfare agency in the 50 states, the District of Columbia, Puerto Rico, and any tribe with an approved title IV–E plan) to certify that it will not enact or advance policies or practices that lead to a significant increase in the number of children in the state’s juvenile justice system as a response to the limitations added by this bill on title IV–E support for foster children placed in non-foster family home settings.

Not later than December 31, 2023 the Government Accountability Office would be required to submit to Congress a report on the effect, if any, of limiting title IV–E support for children not in foster family homes and of this evaluation, including how often children who subject to both child welfare and juvenile justice oversight (“dually adjudicated”) are placed in juvenile justice settings and whether a lack of funded congregate care placements under the child welfare system contributes to this outcome.

SECTION 202: ASSESSMENT AND DOCUMENTATION OF THE NEED FOR  
PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM

*Present law*

For each child in foster care the state must follow a set of defined case review procedures [Sec. 471(a)(16) and Sec. 422(b)(8)(A)(ii) of the Social Security Act]. Among these, the state must develop a written case plan for each child in care that is designed to achieve the child’s placement in a safe setting that is the least restrictive (most family-like) and most appropriate setting available consistent with the best interests and special needs of the child [Sec. 475(5)(A) of the Social Security Act]. Further, each child’s status in foster care must be reviewed administratively no less often than every six months [Sec. 475(5)(B) of the Social Security Act], and a judge (or court-appointed body) must review the permanency plan for each child in foster care at least once every 12 months [Sec.



475(5)(C) of the Social Security Act]. Any child who is age 14 or older may select as many as two individuals to be a part of his/her permanency planning team [Sec. 475(5)(C)(iv) of the Social Security Act].

*Explanation of provision*

For any child placed in a “qualified residential treatment program,” this provision would require states to have additional case review procedures as follows:

- Assessment and Determination by Qualified Individual Within 30 days of Placement

This section would require that, within 30 days of the child’s placement in a qualified residential treatment program, a “qualified individual,” working in conjunction with a state-assembled “family and permanency team,” will assess the child’s strengths and needs; determine what type of placement is the least restrictive and most appropriate for the child; and develop specific short- and long-term mental and behavioral health goals for the child. If the assessment finds that placement in a foster family home is not appropriate, the qualified individual must write down, the reasons why the child’s needs cannot be met in the child’s family or in a foster family home (a lack or shortage of foster family homes may not be an acceptable reason) and why the qualified residential treatment program will provide the most appropriate care.

A “qualified individual” would be defined as a trained professional or licensed clinician who is not an employee of the state child welfare agency and is not connected to, or affiliated with any placement setting in which children are placed by the state. However, the HHS Secretary would be permitted to waive these requirements if an individual is a trained professional or licensed clinician and the state certifies (in accordance with criteria established by the HHS Secretary) the individual will maintain objectivity when determining the most effective and appropriate placement for a child.

- Assemble a “Family and Permanency Team” to Work with the Qualified Individual on Placement Assessment

This section would document in the child’s case plan: 1) its good faith efforts assemble the “family and permanency” team consisting of biological family members, kin of the child, and other individuals who are resources to the child’s family, (e.g., teachers, or clergy); 2) contact information for family members, relatives and fictive kin; 3) evidence that the determination about placement appropriateness made by the qualified individual was done in conjunction with the family and permanency team; and 4) if placement setting determination is different the determination made by the “qualified individual,” the reasons why the team and child’s preferences were not recommended. If the youth is at least 14 years of age, the family and permanency team must include individuals selected by youth to be a part of his/her permanency team.

- Court Approval or Disapproval of Placement Determination within 60 days of Placement

This section would ensure that within 60 days of the start of a child’s placement in a qualified residential treatment program a court (or administrative body appointed or approved by the court) will: 1) consider the assessment, determination and documentation

made by the qualified individual; 2) determine if a child's needs can be met in a family foster home or, if not, whether the qualified residential treatment program where the child is placed is most appropriate to the child's mental and behavioral health goals; and 3) approve or disapprove the placement setting.

- Ongoing Review of Placement Setting Decision by State Agency

At each status review and permanency hearing held for the child while he/she is placed in a qualified residential treatment program, the state child welfare agency must: 1) submit evidence that ongoing assessment determines placement in the qualified residential treatment center remains appropriate to the child's goals; 2) document its efforts to prepare the child to move to a family setting (including home of biological parents, kin, adoptive parents, guardians, or foster parents); and 3) document the specific treatment or service needs that will be met for the child in that setting and the length of time the child is expected to need this treatment or services.

- Additional Oversight for Stays Beyond Specified Time Periods

For a child 12 years of age or younger who is placed in a qualified residential treatment program for six consecutive or non-consecutive months or for a child of any age in such a placement setting for 12 consecutive (or 18 nonconsecutive) months, submit to the HHS Secretary the most recent evidence, as prepared for a status or permanency hearing, regarding ongoing appropriateness of the placement setting and the signed approval of the state child welfare agency head for the child's continued placement in the setting.

#### SECTION 203: PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES

##### *Present law*

Under the title IV-B Child Welfare Services program, each state must develop a health oversight plan to ensure a coordinated strategy to meet the health needs of children in foster care [Sec. 422(b)(15) of the Social Security Act].

##### *Explanation of provision*

This section would require states to include in this plan the state's established procedures to ensure children are not inappropriately placed in a non-family setting, due to an inappropriate diagnosis of mental illness, behavioral disorders, medically fragile conditions, or developmental disabilities. HHS would also be required to analyze state compliance with this requirement, identify best practices, and submit a report on this work to Congress no later than January 1, 2019.

#### SECTION 204: ADDITIONAL DATA AND REPORTS REGARDING CHILDREN PLACED IN A SETTING THAT IS NOT A FOSTER FAMILY

##### *Present law*

The HHS Secretary must annually prepare and report to Congress state-level data on certain child welfare outcomes and other characteristics. Beginning with the report covering FY2016, it must include information on foster children placed in settings other than

foster family homes, including numbers of these children, their ages and length of time in non-foster family settings; any clinically diagnosed special needs of these children, and any specialized services provided to them [Sec. 479A(a)(7)(A) of the Social Security Act].

*Explanation of provision*

This section would rewrite this reporting requirement to list more types of non-foster family home settings for which specific information must be included in the report and would additionally request information on the gender and race/ethnicity of children placed in these settings, and whether the non-foster family home is the first placement setting for the child or, if not, the number and type of previous placement settings.

SECTION 205: EFFECTIVE DATES; APPLICATION TO WAIVERS

*Present law*

No provision.

*Explanation of provision*

Provisions limiting federal title IV–E foster care maintenance payment support for children in non-foster family settings, including related definitions, assessment procedures and other requirements would be effective on the first day of FY2020 (October 1, 2019), as would the certification concerning no state policies advanced as a result of those new limits that would impact the juvenile justice system.

Other provisions in title II—the training requirement under the Court Improvement Program (protocols to prevent inappropriate diagnoses and changes to HHS data reporting requirements) would be effective on the first day of FY2017 (October 1, 2016). However, if HHS determined that a state (including the 50 states, District of Columbia, and Puerto Rico) would need to enact legislation (other than appropriations), to meet the requirement to develop protocols to prevent inappropriate diagnoses, the state would have until the first day of the first calendar quarter that begins after the close of the first regular state legislative session that begins after the enactment of the Family First Prevention Services Act of 2016.

*Reason for changes under Title II—Ensuring the Necessity of a Placement that is Not in a Foster Family Home*

When children are removed from their parents, they may be placed in a range of settings, including a family foster care home or a group home (also called a congregate care setting). Federal law mandates that each child’s case plan include a discussion of how the plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s) when the case plan goal is reunification. Case plans must also address how the placement is consistent with the best interests and special needs of the child. However, states and tribes have flexibility and discretion to make decisions for a child on a case-by-case basis to ensure that the best placement is made and the individual needs of the child are met.

According to the FY 2013 data from the Adoption and Foster Care Analysis and Reporting System (AFCARS), on any given day 14% of children in foster care were placed in congregate care (i.e. group settings that house multiple foster care youth) and 20% of children who enter foster care will experience congregate care at some point. The average length of stay in congregate care is 8 months. The Children's Bureau noted that children 12 and under comprised an unexpectedly high percentage (31%) of children who experienced a congregate care setting."<sup>23</sup>

Children with a Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis, behavioral health issues or other clinical disabilities make up a significant proportion of those children who, at some point during their time in foster care, experienced time in a congregate care setting. And these children tend to remain in congregate care settings for longer periods of time. For children age 13 and older, the majority enter congregate care due to a child behavior problem and no other clinical mental or medical disability. According to FY 2013 AFCARS data, approximately one third of children and youth in congregate care settings have no clinical or behavioral diagnosis. In addition, boys are more likely than girls to experience congregate care, particularly if they have a DSM diagnosis or behavioral problem. The overall time in foster care was longer for children who spent some time in congregate care, with an average of 27 months compared to 21 months total time in foster care.<sup>24</sup>

Although there is an appropriate role for congregate care placements in the continuum of foster care settings, there is consensus across multiple stakeholders that most children and youth, but especially young children, are best served in a family setting. Stays in congregate care should be based on the specialized behavioral and mental health needs or clinical disabilities of children. It should be used only for as long as is needed to stabilize the child or youth so they can return to a family-like setting.

Youth who present with a DSM diagnosis can make improvements in a specialized setting for a limited period of time. According to a consensus statement on group care for children and adolescents released by the American Orthopsychiatric Association, "There is not demonstrable therapeutic necessity for group care to be used as a long-term living arrangement."<sup>25</sup> This statement also recognized that a large-scale study comparing youth in group homes versus youth in foster care found youth in group settings were 2.4 times more likely to be arrested—even though researchers controlled for race, sex, abuse and placement history, presence of behavior problems, and history of running away.

There has been a significant decrease (37% reduction) in the percentage of children placed in congregate care settings in the past decade, and this reduction is at a greater rate than the reduction in the overall foster care population (21% reduction).<sup>26</sup> While these

<sup>23</sup> U.S. Department of Health and Human Services, A National Look at the Use of Congregate Care in Child Welfare. March 30, 2015.

<sup>24</sup> Ibid.

<sup>25</sup> Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association. *American Journal of Orthopsychiatry*. 2014, Vol. 84, No. 3, 219–225.

<sup>26</sup> U.S. Department of Health and Human Services, A National Look at the Use of Congregate Care in Child Welfare. March 30, 2015.

trends suggest that child welfare practice is moving toward more limited use of congregate care, the depth of improvement is not consistent across states, and some cohorts of children and youth have fared better than others. To ensure federal funds are only spent on settings that are most appropriate for children, this bill limits federal payment to states when children are placed inappropriately in non-family settings, such as group homes or congregate care facilities.

The Committee also believes it is important to mention that this bill would not prevent states from placing children in congregate care, nor eliminate federal funding for congregate care placements. Instead, this bill seeks to improve the safety and effectiveness of congregate care settings when they involve foster children. Federal funding remains available under the bill when a child is appropriately placed in congregate care because of their need for specific clinical services that cannot be delivered in a family setting. Congregate care settings will need to meet new licensing and accreditation standards to ensure they provide appropriate supervision and have the necessary clinical staff to address the needs of the child. Importantly, these limitations on federal reimbursement for congregate care will not affect child welfare financing for most children currently in foster care, as over six in 10 children in foster care are paid for solely with state funds. In addition, less than 14% of all children in foster care nationally are in congregate care settings, so these requirements only apply to a relatively limited number of cases in each state.

*Effective date for Title II—Ensuring the Necessity of a Placement that is Not in a Foster Family Home*

Provisions limiting federal title IV–E foster care maintenance payment support for children in non-foster family settings, including related definitions, assessment procedures and other requirements would be effective on the first day of FY2020 (October 1, 2019); the certification concerning no state policies advanced as a result of those new limits that would impact the juvenile justice system would also be effective on that date.

Other provisions in title II—the training requirement under the Court Improvement Program; protocols to prevent inappropriate diagnoses; and changes to the annual report requirement for the HHS Secretary would be effective on the first day of FY2017 (October 1, 2016). However, if the HHS Secretary determined that a state (including the 50 states, District of Columbia, and Puerto Rico) would need to enact legislation, other than appropriations to meet the requirement to develop protocols to prevent inappropriate diagnoses, the state would have until the first day of the first calendar quarter that begins after the close of the first regular state legislative session that begins after the enactment of the Family First Prevention Services Act of 2016.

## Title III—Continuing Support for Child and Family Services

## SECTION 301: SUPPORTING AND RETAINING FOSTER FAMILIES FOR CHILDREN

*Present law*

States must spend 90% of the funding they receive under the title IV–B Promoting Safe and Stable Families (PSSF) program on four categories of child and “family services. One of those categories is “family support” services, which include community-based services designed to promote the safety and well-being of children and families; strengthen families (including biological, adoptive, foster, and kin); increase parent’s confidence and parenting competence; and enhance child development [Section 431(a)(2) of the Social Security Act].

*Explanation of provision*

This section would further provide family support services including services designed to support and retain foster families so they can provide quality family-based settings for children in foster care.

It would provide a separate appropriation of \$8 million in FY2018 for HHS to make competitive grants to states or tribes to support recruitment and retention of high-quality foster families. The grants would be intended to increase the capacity of a grantee to place more children in family settings and would need to focus on states or tribes with the highest percentage of children in non-family settings. Funding appropriated in FY2018 would remain available for five years (through FY2022).

## SECTION 302: EXTENSION OF CHILD AND FAMILY SERVICES PROGRAMS

*Present law*

Authorizes annual discretionary funding of not more than \$325 million for the title IV–B Child Welfare Services program in each of FY2012–FY2016 [Sec. 425 of the Social Security Act].

Authorizes annual mandatory funding of \$345 million for the title IV–B Promoting Safe and Stable Families program in each of FY2012–FY2016 [Sec. 436(a) (see also Sec. 434(a)) of the Social Security Act]; separately authorizes annual discretionary funding of \$200 million for the PSSF program in each of FY2012–FY2016 [Sec. 437(a) of the Social Security Act].

For each of FY2012–FY2016, the HHS Secretary is required to reserve \$20 million out of the mandatory funding provided for the PSSF program to monthly caseworker visit grants and, a separate \$20 million to make regional partnership grants (to improve outcomes for children affected by parental substance abuse) [Sec. 436(b)(4)and(5) of the Social Security Act].

Funding to make Court Improvement Program (CIP) grants must be annually reserved out of the mandatory, and any discretionary, funds provided for the PSSF program [Sec. 436(b)(2) and Sec. 437(b)(2) of the Social Security Act]. There is no year limit on the requirement that funds be reserved for the CIP.

Provided it has an approved CIP grant application, the highest court in each state (includes the 50 states, the District of Columbia and Puerto Rico) is entitled to an allotment of this CIP program

funding in each of FY2012–FY2016 [Sec. 438(c)(1) of the Social Security Act]. A state highest court may use its CIP allotment to pay no more than 75% of CIP costs in each of FY2012–FY2016 [Sec. 438(d) of the Social Security Act].

Finally, this section contains language appropriating CIP funds for each of FY2006–FY2010 and directing how certain funding reserved for the CIP in FY2011 was to be distributed [Sec. 438(e) of the Social Security Act].

*Explanation of provision*

This section would extend this same annual level of discretionary funding authority for the Child Welfare Services program in each of FY2017–FY2021.

This section would extend this same annual level (\$345 million) of mandatory funding authority for the PSSF program in each of FY2017–FY2021 and the same annual level (\$200 million) of discretionary funding authority for the PSSF program in each of the same five years.

This section would require the HHS Secretary to continue these same funding reservations out of the mandatory funding provided for the PSSF program for each of FY2017–FY2021, i.e., \$20 million in each of those years for monthly caseworker visit grants and \$20 million in each of those years for regional partnership grants.

This section would extend the entitlement of eligible state highest courts to CIP grant funding through each of FY2017–FY2021. It would also extend this 75% federal share through each of FY2017–FY2021.

This would also repeal language appropriating CIP funds for each of FY2006–FY2010 and directing how certain funding reserved for the CIP in FY2011 was to be distributed [Sec. 438(e) of the Social Security Act], since it is now obsolete.

SECTION 303: IMPROVEMENTS TO THE JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM AND RELATED PROVISIONS.

*Present law*

Authorizes funding to states for services to support older children in foster care and youth who have emancipated from foster care (“aged out”). This funding is authorized under the Chafee Foster Care Independence Program (CFCIP). Among other requirements for receiving CFCIP funds, a state must certify that it will provide assistance and services to youth who left foster care after reaching their 18th birthday but who are not yet 21 years of age [Sec. 477(b)(3)(A) and (B) of the Social Security Act].

Authorizes general CFCIP funding and, separately, funding for the Chafee Education and Training Voucher (ETV) [Sec. 477(h) of the Social Security Act]. Funding is allotted to all states based primarily on their relative share of children in foster care across the nation and to eligible tribes (out of a state’s allotment) based on share of tribal children in foster care in the state. States must annually request to receive their CFCIP and ETV allotments and must spend the funding in the fiscal year they are received or in the succeeding fiscal year. If a state applies for its full CFCIP and ETV allotments but does not spend them within the two-year time

frame, the unused funds revert to the federal Treasury [Sec. 477(c), (d) and Sec. 477(j)(4) of the Social Security Act].

Authorizes education and training vouchers for eligible youth to attend institutions of higher education. Youth are eligible to receive ETVs if they are eligible for the CFCIP. A youth can receive a voucher until age 21, or to age 23 if the youth is in the voucher program at age 21 and is making satisfactory progress toward completing the education or training program in which he or she is enrolled [Sec. 477(i)(1) and Sec. 477(i)(3) of the Social Security Act].

The program is entitled the John H. Chafee Foster Care Independence Program [Sec. 477 of the Social Security Act heading].

The purposes of CFCIP specify that particular services may be provided to four groups of children or youth: (1) those likely to remain in foster care until 18 years of age (which may, as state chooses, include children of any age); (2) those who are aging out; (3) those who were in foster care and are between ages 18 and 21; and (4) those who have left foster care at age 16 or older for kinship guardianship or adoption.

Services for children likely to remain in foster care include assistance in—(1) obtaining a high school diploma, career exploration, vocational training, job placement and retention, substance abuse prevention, and preventative health activities; (2) receiving the education, training, and services necessary to obtain employment; (3) preparing for and entering postsecondary education; and (4) gaining access to regular, ongoing opportunities to engage in age or developmentally-appropriate activities. Services for children aging out of foster care include personal and emotional supports through mentors and interaction with dedicated adults. Services for former foster children between the ages of 18 and 21 include financial, housing, counseling, employment, education, and other appropriate services to complement their efforts in achieving self-sufficiency and assuring that they recognize and accept personal responsibility for making the transition to adulthood. Children who have left foster care at age 16 or older for kinship guardianship or adoption are eligible for these services generally (until age 21) [Sec. 477(a) of the Social Security Act].

Section 477 refers to “adolescents” in some places [Sec. 477(b)(2)(D), Sec. 477(b)(3)(D), Sec. 477(b)(3)(H), and Sec. 477(b)(3)(K) of the Social Security Act].

Requires states to certify that they use title IV–E foster care funds to provide training for foster parents, adoptive parents, workers in group homes, and case managers to understand and address the issues confronting adolescents in preparing for independent living. The training must be coordinated, to the extent possible, with the state independent living program for eligible youth in care or those who have recently aged out of care [Sec. 477(b)(3)(D) of the Social Security Act].

HHS was required to consult with specified stakeholders to develop outcome measures and identify data elements needed to track outcomes of youth receiving independent living services and state performance in providing those services and, further to develop a plan for states to collect and report this information [Sec. 477(f)(2) of the Social Security Act]. Based on these requirements (added to the law in 1999) HHS developed, and issued a final rule on, the National Youth in Transition Database, or NYTD. States must sur-



vey two groups of current and former foster youth as part of NYTD: (1) those who currently receive any independent living service that is provided or paid for by the state child welfare agency; and (2) those in foster care on or around their 17th birthday, those same youth two years later on or about their 19th birthday, and again on or about their 21st birthday. The second group may include youth who have aged out of foster care.

States (including the 50 states, District of Columbia and Puerto Rico) and tribes operating a title IV–E program are required to provide certain information to youth emancipating from foster care at age 18 or older (or any age up to age 21 if the state provides title IV–E foster care up to that older age). The law specifies the following information and documents: an official or certified copy of the United States birth certificate, Social Security card issued by the Social Security Administration, health insurance information, a copy of the foster youth’s medical records, and a driver’s license or state-issued identification card that meets the requirements of the REAL ID Act of 2005. Youth are to receive the documents if they have been in care for at least six months and are otherwise eligible [Sec. 475(5)(I) of the Social Security Act].

*Explanation of provision*

This section would permit states to certify that they use CFCIP funds to serve youth who have aged out of foster care and are not yet 23 years of age but only if the HHS Secretary determines that the state has elected to extend federal title IV–E foster care to children up to age 21; or that the state provides comparable assistance with state or other non-title IV–E funds.

It would permit HHS to redistribute any CFCIP or ETV funds that are not spent within the two-year time frame to one or more states (including tribes) that apply for these funds, provided HHS determines the state or tribe will use the funds according to the CFCIP or ETV purposes for which they were originally provided. HHS would be required to distribute these unused funds based on a state or tribe’s share of all children in foster care among the states and tribes applying for these additional funds.

It would continue to make the vouchers available to youth who are eligible for the CFCIP, which would now include youth who have experienced foster care at age 14 or older, including former foster care recipients up to 21 years of age (or 23 years of age in states that certify they provide CFCIP services to that older age). Youth could continue receiving an education and training voucher until age 26, so long as the youth is participating in the program and making satisfactory progress toward completing a postsecondary education or training program. In no event, however, could a youth receive such a voucher for more than five years, regardless of whether those years are consecutive.

This section would also change the program name to the John H. Chafee Foster Care Program for Successful Transition to Adulthood.

It would provide CFCIP services for four groups of youth, including those who (1) have experienced foster care and are age 14 or older; (2) are former foster care recipients ages 18 to 21 years of age (or up to age 23 if they live in a state that certifies it provides

services to youth up to age 23); or (3) left foster care at age 16 or older for kinship guardianship or adoption.

Youth who have experienced foster care at age 14 or older would be eligible for most services and supports that are currently available to youth likely to remain in foster care until age 18. They would also be eligible for services that include assistance in—obtaining a post-secondary education; training and opportunities to practice daily living skills (such as financial literacy training and driving instruction); achieving meaningful connections with a caring adults; and engaging in age or developmentally appropriate activities. These youth would also be eligible for services related to positive youth development, and experimental learning that reflects what their peers in intact families experience. Children likely to remain in foster care until age 18 would continue to be eligible for services to ensure they have regular and on-going opportunities to engage in age and developmentally appropriate activities. Services and supports to former foster care recipients who are age 18 to 21 (or 23 if state extends title IV–E or comparable assistance to this age) remain unchanged.

Additionally, this section would strike “adolescents” and replace with “youth” in all places that it appears.

It would specify that training would be required to address “youth development” to help stakeholders with youth preparing for both (1) a successful transition to adulthood and (2) a permanent connection with a caring adult. The training would need to be targeted to the same individuals listed in current law. States would no longer be required to certify that they would coordinate the training with the independent living program for eligible youth.

This section would also strike the obsolete requirements for HHS and would require that no later than October 1, 2017, HHS must submit a report to the House Ways and Means and Senate Finance committees that, based on NYTD or other relevant state-reported data, provides the following:

- For 17-year-olds surveyed by NYTD, a description of the reasons they enter care and their experiences while in care (such as length of stay, number of placement settings, case goal, and discharge reason), and an analysis of how this same information compares to that of children who exit from care before reaching age 17;
- For 19- and 21-year-olds surveyed by NYTD and who report negative outcomes, a description of their characteristics;
- Benchmarks for determining what constitutes a poor outcome for youth who remain in, or have exited from, foster care and plans by the executive branch to incorporate those benchmarks as part of efforts to evaluate how well child welfare agencies provide services to children transitioning from care;
- An analysis of the association between specified foster care experiences (types of placement, number of overall placements, time spent in foster care, and other factors) and outcomes for youth at ages 19 and 21; and
- An examination of differences in outcomes for children who remain in foster care at age 19 and 21 and those of that age who have left foster care.

Finally, it would require states, territories, and tribes to also provide official documentation necessary to prove that the child was

previously in foster care. Such documentation may be necessary for youth to prove eligibility for a program or benefit, such as Medicaid or student financial aid.

*Reason for changes under Title III—Continuing Support for Child and Family Services*

The Committee believes that qualified, loving foster families are critically important to our efforts to protect and nurture children who have been maltreated, and will be especially important as states reduce their reliance on congregate care. This change is intended to clarify that states have full flexibility to use these existing funds to support foster families.

This section also makes modest updates to the John H. Chafee Foster Care Independence program to better align the statute with best practices and to maximize the availability of support for older foster youth making the transition to adulthood.

*Effective date for Title III—Continuing Support for Child and Family Services*

These provisions are effective on October 1, 2016.

Title IV—Continuing Incentives to States to Promote Adoption and Legal Guardianship

SECTION 401: REAUTHORIZING ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PROGRAMS

*Present law*

Adoption and Legal Guardianship Incentive Payments are paid to states that increase the rate at which children who are in foster care and who cannot return home are placed in permanent families via adoption or legal guardianship [Sec. 473A of the Social Security Act].

*Explanation of provision*

This section would continue for five fiscal years (FY2016–FY2020) state’s eligibility to earn these incentive payments and would extend annual discretionary funding authority, at the current law annual level of \$43 million, for each of five fiscal years (FY2017–FY2021). Additionally, this section would permit funds appropriated under this authority to remain available until expended, but not later than FY2021.

*Reason for change*

Research has shown that children adopted from foster care have better life outcomes than children who remain in foster care. The Committee believes states should continue to be incentivized to place children with adoptive families when they cannot safely return home.

*Effective date*

The provision is effective upon enactment.

## Title V—Technical Corrections

SECTION 501: TECHNICAL CORRECTIONS TO DATA EXCHANGE  
STANDARDS TO IMPROVE PROGRAM COORDINATION*Present law*

Requires the HHS Secretary, after consulting with the Office of Management and Budget (OMB) and considering state perspectives to designate by regulation standard data elements for any category of reporting required under title IV–B. Stipulates additional requirements related to these data standards [Sec. 440 of the Social Security Act].

*Explanation of provision*

This section would rewrite these provisions to require HHS, in consultation with an interagency work group established by the OMB, and considering state government perspectives, to develop regulations concerning the categories of information that state child welfare agencies must be able to exchange with another state agency as well as federal reporting and data exchange required under applicable federal law. HHS would need to issue a proposed rule no later than two years (24 months) after enactment of this bill that identifies federally required data exchanges and specifies state implementation options.

SECTION 502: TECHNICAL CORRECTIONS TO STATE REQUIREMENT TO  
ADDRESS THE DEVELOPMENTAL NEEDS OF YOUNG CHILDREN*Present law*

Under the title IV–B Child Welfare Services programs states must describe activities they do to reduce the length of time children who are under five years of age spend without a permanent family and what it does to address the developmental needs of these children [Sec. 422(b)(18) of the Social Security Act].

*Explanation of provision*

This section would clarify that a state must describe in its title IV–B Child Welfare Services plan what it is doing to address the developmental needs of all vulnerable children under five years of age who receive benefits or services under the title IV–B programs or the title IV–E foster care and permanency program (not just children in foster care).

*Reason for changes under Title V—Technical Corrections*

The original version of the provision in Section 501 included errors that prevented HHS from complying with Congressional intent. In addition, previous interpretation of the law limited this requirement to children under age five who were in foster care.

*Effective date for Title V—Technical Corrections*

These provisions are effective upon enactment.

Title VI—Ensuring States Reinvest Savings Resulting from  
Increase in Adoption Assistance

SECTION 601 AND 602: DELAY OF ADOPTION ASSISTANCE PHASE-IN; GAO  
REPORT

*Present law*

Under current law use of an income test for purposes of determining eligibility for title IV–E adoption assistance is being phased out (primarily based on the child’s age). However, no child, regardless of age, may be eligible for title IV–E adoption assistance unless the state determines that the child has “special needs.” For purposes of the title IV–E program, “special needs” generally refers to factors or conditions (as determined by a state) such as race/ethnicity, physical or mental disability, and age or behavioral issues that make it unlikely that a child will be adopted with assistance [Sec. 473(c) and (e) of the Social Security Act].

As of October 1, 2015 (FY2016) no income eligibility test is needed to determine title IV–E adoption assistance eligibility for child determined by the state to have “special needs” who is four years of age or older when his/her adoption assistance agreement is finalized. As of October 1, 2016 (FY2017), this would be the case for special needs children who are age two or older when their adoption assistance agreement is finalized and, as of October 1, 2017 (FY2018), children of any age who are determined by a state to have special needs may be eligible for title IV–E adoption assistance without application of an income test [Sec. 473(e)(1) and Sec. 473(a)(2)(A)(ii) of the Social Security Act].

*Explanation of provision*

This section would delay the age-related expansion of eligibility for title IV–E adoption assistance that was enacted as part of the Fostering Connections to Success and Increasing Adoptions Act of 2008. The delay would affect children with special needs who are under four years of age when their adoption assistance agreement is finalized. Specifically children with special needs who are two but not yet four years of age would be eligible for title IV–E adoption assistance without meeting an income test as of April 1, 2019 (instead of current law October 1, 2016) and any child with special needs (regardless of age) would be eligible for title IV–E adoption assistance, without an income test, as of April 1, 2020 (instead of current law October 1, 2017).

In addition, this section would require the Government Accountability Office (GAO), to study whether states are complying with the requirement that they spend, for child welfare purposes, an amount equal to the amount of savings (if any) resulting from phasing out the income eligibility requirements for federal adoption assistance and the requirement that not less than 30% of any such savings be used for post-adoption or post-guardianship services and services to support and sustain positive outcomes, and permanency, for children who might otherwise enter foster care. The GAO would be required to submit its findings, including any recommendations to ensure compliance with the law, to the House Ways and Means and Senate Finance Committees.

*Reason for changes under Title VI—Ensuring States Reinvest Savings Resulting from Increase in Adoption Assistance*

Since 1980, the federal government has offered support to states for providing ongoing adoption assistance to eligible children who are determined by their state to have “special needs” and who are removed from families with very low incomes. In 2008, Congress adopted provisions designed to remove (over time) the income test requirement as part of determining eligibility for this federal assistance and it stipulated that states must reinvest in child welfare purposes any savings to the state from this change in federal eligibility rules. At that time the Congressional Budget Office estimated significant additional federal spending under this program due to this change in eligibility rules.

In 2011 and 2014, in response to concerns that some states were not adequately calculating and reinvesting their savings associated with the phase in of full federal support for adoption assistance, Congress included a provision in P.L. 113–183 which revised prior law requirements related to such savings. The new provisions require states to use a methodology specified, or approved, by HHS to calculate any savings. Further, the 2014 law requires states to spend no less than 30% of any identified savings to provide post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who might otherwise enter foster care. Finally, P.L. 113–183 requires HHS to post information from states regarding calculation and makes these requirements concerning adoption assistance savings effective as of October 1, 2014.

To date, Congress and child welfare advocates have identified two concerns: first that some states may be inadequately tracking savings resulting from the new federal support for adoption assistance and second, that those savings have not been adequately reinvested back into the child welfare system as required under both the 2008 and 2014 Acts. In the most recent report to HHS on adoption assistance savings, 25 states and the District of Columbia reported \$0 in FY2015 in reinvested savings from federal adoption assistance funding.<sup>27</sup>

Given these concerns, it is the Committee’s view that temporarily pausing the continued phase in of increased federal adoption assistance funding is warranted in order to ensure future savings are reinvested into eligible state child welfare expenditures, consistent with federal law. Accordingly, this legislation instructs the GAO to conduct an investigation into this matter and make recommendations to Congress on how to best ensure states are complying with federal law. In performing this investigation, it is our expectation that GAO examine whether there are any emerging patterns regarding adoption practices since the enactment of the 2008 adoption assistance “de-link” phase in and if states are maximizing or not maximizing the use of these new adoption assistance funds in proportion to the special needs population.

The Committee would like to make it clear that the pause in implementation of the full adoption assistance phase-in is meant to

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<sup>27</sup> U.S. Department of Health and Human Services. Federal Fiscal Year 2015 Annual Adoption Savings Calculation and Accounting Report (Form CB-496 Part 4) Reported Data As Of: June 7, 2016.

be temporary and that the phase-in of federal support is still a policy of utmost priority to be completed by April of 2020.

*Effective date for Title VI—Ensuring States Reinvest Savings Resulting from Increase in Adoption Assistance*

These provisions are effective upon enactment.

### **III. 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. 5456, “Family First Prevention Services Act of 2016” on June 15, 2016.

An amendment in the nature of a substitute was offered by Chairman Brady and adopted by voice vote (with a quorum being present).

The bill was ordered favorably reported to the House of Representatives, as amended, by a voice vote (with a quorum being present).

### **IV. NEW BUDGET AUTHORITY AND TAX EXPENDITURES**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill does not involve new budget authority or tax expenditure budget authority.

### **V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE**

With respect to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, an estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 was not submitted to the Committee before the filing of the report.

### **VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

#### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the description portions of this report.

#### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to strengthen families by providing evidence-based prevention services to keep children out of foster care and reduces inappropriate placements into group homes.

### C. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) 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 bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

### D. 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.

### E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

### F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires one directed rule making within the meaning of such section.

## **VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

### A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

### **SOCIAL SECURITY ACT**

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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) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

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

(1) provide that (A) the individual or agency that administers or supervises the administration of the State's services program under subtitle 1 of title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under subtitle 1 of title XX<sup>13</sup>, under the State program funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;

(4) contain a description of—

(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

(B) the child welfare services staff development and training plans of the State;

(5) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies

in accordance with State and local programs and arrangements, as authorized by the State;

(6) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require;

(7) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed;

(8) provide assurances that the State—

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

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

(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) where safe and appropriate, return to families from which they have been removed; or

(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

(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain safely with their families; and

(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;

(9) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act;

(10) contain assurances that the State shall make effective use of cross-jurisdictional resources (including through contracts for the purchase of services), and shall eliminate legal barriers, to facilitate timely adoptive or permanent placements for waiting children;

(11) contain a description of the activities that the State has undertaken for children adopted from other countries, including the provision of adoption and post-adoption services;

(12) provide that the State shall collect and report information on children who are adopted from other countries and who

enter into State custody as a result of the disruption of a placement for adoption or the dissolution of an adoption, including the number of children, the agencies who handled the placement or adoption, the plans for the child, and the reasons for the disruption or dissolution;

(13) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A;

(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;

(15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of—

(i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;

(ii) how health needs identified through screenings will be monitored and treated, including emotional trauma associated with a child's maltreatment and removal from home;

(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

(iv) steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care;

(v) the oversight of prescription medicines, including protocols for the appropriate use and monitoring of psychotropic medications;

(vi) how the State actively consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children; and

(vii) steps to ensure that the components of the transition plan development process required under section 475(5)(H) that relate to the health care needs of children aging out of foster care, including the requirements to include options for health insurance, information about a health care power of attorney, health care proxy, or other similar document recognized

under State law, and to provide the child with the option to execute such a document, are met; and

(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with respect to whom services are provided under the State plan developed pursuant to this subpart;

(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

(D) preserve essential program records; and

(E) coordinate services and share information with other States;

(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children;

(18) include a description of the activities that the State has undertaken to reduce the length of time children who have not attained 5 years of age are without a permanent family, and the activities the State undertakes to address the developmental needs of such children who receive benefits or services under this part or part E; and

(19) contain a description of the sources used to compile information on child maltreatment deaths required by Federal law to be reported by the State agency referred to in paragraph (1), and to the extent that the compilation does not include information on such deaths from the State vital statistics department, child death review teams, law enforcement agencies, or offices of medical examiners or coroners, the State shall describe why the information is not so included and how the State will include the information.

(c) DEFINITIONS.—In this subpart:

(1) ADMINISTRATIVE COSTS.—The term “administrative costs” means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors at-

tributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.

\* \* \* \* \*

#### LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

SEC. 425. To carry out this subpart (other than sections 426, 427, and 429), there are authorized to be appropriated to the Secretary not more than \$325,000,000 for each of fiscal years 2012 through 2016.

\* \* \* \* \*

## Subpart 2—Promoting Safe and Stable Families

### SEC. 430. PURPOSE.

The purpose of this program is to enable States to develop and establish, or expand, and to operate coordinated programs of community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services to accomplish the following objectives:

- (1) To prevent child maltreatment among families at risk through the provision of supportive family services.
- (2) To assure children's safety within the home and preserve intact families in which children have been maltreated, when the family's problems can be addressed effectively.
- (3) To address the problems of families whose children have been placed in foster care so that reunification may occur in a safe and stable manner in accordance with the Adoption and Safe Families Act of 1997.
- (4) To support adoptive families by providing support services as necessary so that they can make a lifetime commitment to their children.

### SEC. 431. DEFINITIONS.

(a) IN GENERAL.—As used in this subpart:

(1) FAMILY PRESERVATION SERVICES.—The term “family preservation services” means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

(A) service programs designed to help children—

- (i) where safe and appropriate, return to families from which they have been removed; or
- (ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for a child, in some other planned, permanent living arrangement;

(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help

children at risk of foster care placement remain safely with their families;

(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition; and

(F) infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a State law.

(2) FAMILY SUPPORT SERVICES.—

(A) IN GENERAL.—The term “family support services” means community-based services designed to carry out the purposes described in subparagraph (B).

(B) PURPOSES DESCRIBED.—The purposes described in this subparagraph are the following:

(i) To promote the safety and well-being of children and families.

(ii) To increase the strength and stability of families (including adoptive, foster, and extended families).

(iii) To increase parents' confidence and competence in their parenting abilities.

(iv) To afford children a safe, stable, and supportive family environment.

(v) To strengthen parental relationships and promote healthy marriages.

(vi) To enhance child development, including through mentoring (as defined in section 439(b)(2)).

(3) STATE AGENCY.—The term “State agency” means the State agency responsible for administering the program under subpart 1.

(4) STATE.—The term “State” includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 428(c).

(6) TRIBAL ORGANIZATION.—The term “tribal organization” has the meaning given the term in section 428(c).

(7) TIME-LIMITED FAMILY REUNIFICATION SERVICES.—

(A) IN GENERAL.—The term “time-limited family reunification services” means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child,

pursuant to section 475(5)(F), is considered to have entered foster care.

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

- (i) Individual, group, and family counseling.
- (ii) Inpatient, residential, or outpatient substance abuse treatment services.
- (iii) Mental health services.
- (iv) Assistance to address domestic violence.
- (v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.
- (vi) Peer-to-peer mentoring and support groups for parents and primary caregivers.
- (vii) Services and activities designed to facilitate access to and visitation of children by parents and siblings.
- (viii) Transportation to or from any of the services and activities described in this subparagraph.

(8) ADOPTION PROMOTION AND SUPPORT SERVICES.—The term “adoption promotion and support services” means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

(9) NON-FEDERAL FUNDS.—The term “non-Federal funds” means State funds, or at the option of a State, State and local funds.

(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

**SEC. 432. STATE PLANS.**

(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

(C) contains assurances that the State—

(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final re-

view (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

(4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services, with significant portions of such expenditures for each such program;

(5) contains assurances that the State will—

(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services) of—

(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

(ii) the populations which the programs will serve; and

(iii) the geographic areas in the State in which the services will be available; and

(B) perform the activities described in subparagraph (A)—

(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A);

(8)(A) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require; and



(B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

(i) copies of form CFS-101 (including all parts and any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

(ii) copies of form CFS-101 (including all parts and any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

(I) the numbers of families and of children served by the State agency;

(II) the population served by the State agency;

(III) the geographic areas served by the State agency; and

(IV) the actual expenditures of funds provided to the State agency;

(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern; and

(10) describes how the State identifies which populations are at the greatest risk of maltreatment and how services are targeted to the populations.

(b) APPROVAL OF PLANS.—

(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation, family support, time-limited family reunification, and adoption promotion and support services).

(2) PLANS OF INDIAN TRIBES OR TRIBAL CONSORTIA.—

(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—

The Secretary may exempt a plan submitted by an Indian tribe or tribal consortium from the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements would be inappropriate to apply to the Indian tribe or tribal consortium, taking into account the resources, needs, and other circumstances of the Indian tribe or tribal consortium.

(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe or tribal consortium under this subpart to which (but for this subparagraph) an allotment of less than \$10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes and tribal consortia with plans approved under this subpart with the same or larger numbers of children.

(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than Sep-

tember 30 of each year, submit such compilation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) INFORMATION TO BE INCLUDED.—The compilation shall include the individual State reports and tables that synthesize State information into national totals for each element required to be included in the reports, including planned and actual spending by service category for the program authorized under this subpart and planned spending by service category for the program authorized under subpart 1.

(3) PUBLIC ACCESSIBILITY.—Not later than September 30 of each year, the Secretary shall publish the compilation on the website of the Department of Health and Human Services in a location easily accessible by the public.

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**SEC. 436. AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.**

(a) AUTHORIZATION.—In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart \$345,000,000 for each of fiscal years 2012 through 2016.

(b) RESERVATION OF CERTAIN AMOUNTS.—From the amount specified in subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve \$6,000,000 for expenditure by the Secretary—

(A) for research, training, and technical assistance costs related to the program under this subpart; and

(B) for evaluation of State programs based on the plans approved under section 432 and funded under this subpart, and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the State programs.

(2) STATE COURT IMPROVEMENTS.—The Secretary shall reserve \$30,000,000 for grants under section 438.

(3) INDIAN TRIBES OR TRIBAL CONSORTIA.—After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the Secretary shall reserve 3 percent for allotment to Indian tribes or tribal consortia in accordance with section 433(a).

(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e) \$20,000,000 for each of fiscal years 2012 through 2016.

(B) USE OF FUNDS.—

(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to improve the quality of monthly caseworker visits with children who are in foster care under the responsibility of the State, with an emphasis on improving caseworker decision making on the safety, permanency, and well-being of foster children

and on activities designed to increase retention, recruitment, and training of caseworkers.

(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).

(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f) \$20,000,000 for each of fiscal years 2012 through 2016.

**SEC. 437. DISCRETIONARY AND TARGETED GRANTS.**

(a) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to any amount appropriated pursuant to section 436, there are authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2012 through 2016.

(b) RESERVATION OF CERTAIN AMOUNTS.—From the amount (if any) appropriated pursuant to subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve 3.3 percent for expenditure by the Secretary for the activities described in section 436(b)(1).

(2) STATE COURT IMPROVEMENTS.—The Secretary shall reserve 3.3 percent for grants under section 438.

(3) INDIAN TRIBES OR TRIBAL CONSORTIA.—The Secretary shall reserve 3 percent for allotment to Indian tribes or tribal consortia in accordance with subsection (c)(1).

(c) ALLOTMENTS.—

(1) INDIAN TRIBES OR TRIBAL CONSORTIA.—From the amount (if any) reserved pursuant to subsection (b)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary. If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.

(2) TERRITORIES.—From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423.

(3) OTHER STATES.—From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) and paragraph (2) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in paragraph (2) of this subsection an amount equal to such re-

maining amount multiplied by the supplemental nutrition assistance program benefits percentage (as defined in section 433(c)(2)) of the State for the fiscal year.

(d) GRANTS.—The Secretary may make a grant to a State which has a plan approved under this subpart in an amount equal to the lesser of—

(1) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

(2) the allotment of the State under subsection (c) for the fiscal year.

(e) APPLICABILITY OF CERTAIN RULES.—The rules of subsections (b) and (c) of section 434 shall apply in like manner to the amounts made available pursuant to subsection (a).

(f) TARGETED GRANTS TO INCREASE THE WELL-BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY SUBSTANCE ABUSE.—

(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's substance abuse.

(2) REGIONAL PARTNERSHIP DEFINED.—

(A) IN GENERAL.—In this subsection, the term “regional partnership” means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

(iii) An Indian tribe or tribal consortium.

(iv) Nonprofit child welfare service providers.

(v) For-profit child welfare service providers.

(vi) Community health service providers.

(vii) Community mental health providers.

(viii) Local law enforcement agencies.

(ix) Judges and court personnel.

(x) Juvenile justice officials.

(xi) School personnel.

(xii) Tribal child welfare agencies (or a consortia of such agencies).

(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

(B) REQUIREMENTS.—

(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for

purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).

(3) AUTHORITY TO AWARD GRANTS.—

(A) IN GENERAL.—In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2012 through 2016 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than \$500,000 and not more than \$1,000,000 per grant per fiscal year.

(B) REQUIRED MINIMUM PERIOD OF APPROVAL.—

(i) IN GENERAL.—A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years, subject to clause (ii).

(ii) EXTENSION OF GRANT.—On application of the grantee, the Secretary may extend for not more than 2 fiscal years the period for which a grant is awarded under this subsection.

(C) MULTIPLE GRANTS ALLOWED.—This subsection shall not be interpreted to prevent a grantee from applying for, or being awarded, separate grants under this subsection.

(4) APPLICATION REQUIREMENTS.—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

(A) Recent evidence demonstrating that substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

(i) enhance the well-being of children receiving services or taking part in activities conducted with funds provided under the grant;

(ii) lead to safety and permanence for such children; and

(iii) decrease the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and where appropriate, the child's family.

(E) A description of the strategies for—

(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

(ii) consulting, as appropriate, with—

(I) the State agency described in paragraph (2)(A)(ii); and

(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

(F) Such other information as the Secretary may require.

(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

(A) Family-based comprehensive long-term substance abuse treatment services.

(B) Early intervention and preventative services.

(C) Children and family counseling.

(D) Mental health services.

(E) Parenting skills training.

(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

(6) MATCHING REQUIREMENT.—

(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

(ii) 80 percent for the third and fourth such fiscal years;

(iii) 75 percent for the fifth such fiscal year;

(iv) 70 percent for the sixth such fiscal year; and

(v) 65 percent for the seventh such fiscal year.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall take into consideration the extent to which applicant regional partnerships—

(A) demonstrate that substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

(B) have limited resources for addressing the needs of children affected by such abuse;

(C) have a lack of capacity for, or access to, comprehensive family treatment services; and

(D) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period.

(8) PERFORMANCE INDICATORS.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall establish indicators that will be used to assess periodically the performance of the grant recipients under this subsection in using funds made available under such grants to achieve the purpose of this subsection.

(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall consult with the following:

(i) The Assistant Secretary for the Administration for Children and Families.

(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

(iii) Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

(iv) Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection.

(9) REPORTS.—

(A) GRANTEE REPORTS.—

(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report

shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.

(ii) **INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.**—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

(B) **REPORTS TO CONGRESS.**—On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

(ii) the performance indicators established under paragraph (8); and

(iii) the progress that has been made in addressing the needs of families with substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.

(10) **LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF THE SECRETARY.**—Not more than 5 percent of the amounts appropriated or reserved for awarding grants under this subsection for each of fiscal years 2012 through 2016 may be used by the Secretary for salaries and Department of Health and Human Services administrative expenses in administering this subsection.

**SEC. 438. ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.**

(a) **IN GENERAL.**—The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) that implement parts B and E;

(B) that determine the advisability or appropriateness of foster care placement;

(C) that determine whether to terminate parental rights;

(D) that determine whether to approve the adoption or other permanent placement of a child;

(E) that determine the best strategy to use to expedite the interstate placement of children, including—

(i) requiring courts in different States to cooperate in the sharing of information;



(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and

(2) to implement improvements the highest state courts deem necessary as a result of the assessments, including—

(A) to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105–89), including the requirements in the Act related to concurrent planning;

(B) to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act; and

(C) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption;

(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

(4)(A) to provide for the training of judges, attorneys and other legal personnel in child welfare cases; and

(B) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption.

(b) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

(2) SINGLE GRANT APPLICATION.—Pursuant to the requirements under paragraph (1) of this subsection, a highest State court desiring a grant under this section shall submit a single application to the Secretary that specifies whether the application is for a grant for—

- (A) the purposes described in paragraphs (1) and (2) of subsection (a);
- (B) the purpose described in subsection (a)(3);
- (C) the purpose described in subsection (a)(4); or
- (D) the purposes referred to in 2 or more (specifically identified) of subparagraphs (A), (B), and (C) of this paragraph.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—With respect to each of subparagraphs (A), (B), and (C) of subsection (b)(2) that refers to 1 or more grant purposes for which an application of a highest State court is approved under this section, the court shall be entitled to payment, for each of fiscal years 2012 through 2016, from the amount allocated under paragraph (3) of this subsection for grants for the purpose or purposes, of an amount equal to \$85,000 plus the amount described in paragraph (2) of this subsection with respect to the purpose or purposes.

(2) AMOUNT DESCRIBED.—The amount described in this paragraph for any fiscal year with respect to the purpose or purposes referred to in a subparagraph of subsection (b)(2) is the amount that bears the same ratio to the total of the amounts allocated under paragraph (3) of this subsection for grants for the purpose or purposes as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under this section for grants for the purpose or purposes.

(3) ALLOCATION OF FUNDS.—

(A) MANDATORY FUNDS.—Of the amounts reserved under section 436(b)(2) for any fiscal year, the Secretary shall allocate—

- (i) \$9,000,000 for grants for the purposes described in paragraphs (1) and (2) of subsection (a);
- (ii) \$10,000,000 for grants for the purpose described in subsection (a)(3);
- (iii) \$10,000,000 for grants for the purpose described in subsection (a)(4); and
- (iv) \$1,000,000 for grants to be awarded on a competitive basis among the highest courts of Indian tribes or tribal consortia that—

(I) are operating a program under part E, in accordance with section 479B;

(II) are seeking to operate a program under part E and have received an implementation grant under section 476; or

(III) has a court responsible for proceedings related to foster care or adoption.

(B) DISCRETIONARY FUNDS.—The Secretary shall allocate all of the amounts reserved under section 437(b)(2) for grants for the purposes described in paragraphs (1) and (2) of subsection (a).

(d) FEDERAL SHARE.—Each highest State court which receives funds paid under this section may use such funds to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2012 through 2016.

(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

(1) \$10,000,000 for grants referred to in subsection (b)(2)(B);

and

(2) \$10,000,000 for grants referred to in subsection (b)(2)(C).

For fiscal year 2011, out of the amount reserved pursuant to section 436(b)(2) for such fiscal year, there are available \$10,000,000 for grants referred to in subsection (b)(2)(B), and \$10,000,000 for grants referred to in subsection (b)(2)(C).

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### Subpart 3—Common Provisions

#### SEC. 440. DATA STANDARDIZATION FOR IMPROVED DATA MATCHING.

(a) STANDARD DATA ELEMENTS.—

(1) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State perspectives, shall, by rule, designate standard data elements for any category of information required to be reported under this part.

(2) DATA ELEMENTS MUST BE NONPROPRIETARY AND INTEROPERABLE.—The standard data elements designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

(3) OTHER REQUIREMENTS.—In designating standard data elements under this subsection, the Secretary shall, to the extent practicable, incorporate—

(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulatory Council.

(b) DATA STANDARDS FOR REPORTING.—

(1) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, shall, by rule, designate data reporting standards to govern the reporting required under this part.

(2) REQUIREMENTS.—The data reporting standards required by paragraph (1) shall, to the extent practicable—

(A) incorporate a widely-accepted, non-proprietary, searchable, computer-readable format;

(B) be consistent with and implement applicable accounting principles; and

(C) be capable of being continually upgraded as necessary.

(3) INCORPORATION OF NONPROPRIETARY STANDARDS.—In designating reporting standards under this subsection, the Secretary shall, to the extent practicable, incorporate existing non-proprietary standards, such as the eXtensible Business Reporting Language.

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#### PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

##### PURPOSE: APPROPRIATION

SEC. 470. For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would have been eligible for assistance under the State's plan approved under part A (as such plan was in effect on June 1, 1995) and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

##### 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) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance in accordance with section 473;

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts

A and B of this title, under subtitle 1 of title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) subject to subsection (c), provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(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;

(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 enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with State and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, policies and procedures (including relevant training for caseworkers) for identifying, documenting in agency records, and determining appropriate services with respect to—

(I) any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk of being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under section 475(8) of this Act, and youth who are not in foster care but are receiving services under section 477 of this Act); and

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

(ii) 2 years after such date of enactment, demonstrate to the Secretary that the State agency is implementing the policies and procedures referred to in clause (i).

(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 each contract entered into by a child care institution to provide foster care, 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 deci-

sions 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; (11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) provides that—

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

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

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an interstate placement), and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that—

(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) the parent has—

(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

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

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

(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)—

(i) a permanency hearing (as described in section 475(5)(C)), which considers in-State and out-of-State permanent placement options for the child, shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-State and out-of-State placements may be made concurrently with reasonable efforts of the type described in subparagraph (B);



(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 sections 475(5) and 475A with respect to each such child;

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A and plan approved under part D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part;

(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved;

or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved;

(19) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards;

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—

(i) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

(B) provides that the State shall—

(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

(ii) comply with any request described in clause (i) that is received from another State; and

(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases; and

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in subparagraph (B) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part;

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

(A) such coverage may be provided through 1 or more State medical assistance programs;

(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the

State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program;

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children;

(23) provides that the State shall not—

(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness;

(24) 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, 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;

(25) provide that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph;

(26) provides that—

(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract—

(I) conduct and complete the study; and

(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

(ii) in the case of a home study begun on or before September 30, 2008, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A);

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 472 on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 473(d);

(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including

any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 473(d) to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is—

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;

(31) provides that reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(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;

(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 or youth described in paragraph (9)(C)(i)(I), the State agency shall—

(A) not later than 2 years after the date of the enactment of this paragraph, report immediately, and in no case later than 24 hours after receiving information on children or youth who have been identified as being a sex trafficking victim, to the law enforcement authorities; and

(B) not later than 3 years after such date of enactment and annually thereafter, report to the Secretary the total number of children and youth who are sex trafficking victims; and

(35) provides that—

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

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

(ii) 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;

(iii) determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in section 475(9)(A)); and

(iv) reporting such related information as required by the Secretary; and

(B) not later than 2 years after such date of enactment, for each child and youth described in paragraph (9)(C)(i)(I) of this subsection, the State agency shall report immediately, and in no case later than 24 hours after receiving, information on missing or abducted children or youth 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.

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.

(d) ANNUAL REPORTS BY THE SECRETARY ON NUMBER OF CHILDREN AND YOUTH REPORTED BY STATES TO BE SEX TRAFFICKING VICTIMS.—Not later than 4 years after the date of the enactment of this subsection and annually thereafter, the Secretary shall report to the Congress and make available to the public on the Internet website of the Department of Health and Human Services the number of children and youth reported in accordance with subsection (a)(34)(B) of this section to be sex trafficking victims (as defined in section 475(9)(A)).

#### FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

##### SEC. 472. (a) IN GENERAL.—

(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—

(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

(B) the child's placement and care are the responsibility of—

(i) the State agency administering the State plan approved under section 471;

(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; or

(iii) an Indian tribe or a tribal organization (as defined in section 479B(a)) or a tribal consortium that

has a plan approved under section 471 in accordance with section 479B; and

(C) the child has been placed in a foster family home or child-care institution.

(3) AFDC ELIGIBILITY REQUIREMENT.—

(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be lim-



ited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section 475(4)).

(c) For the purposes of this part, (1) the term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(b)(8).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h)(1) For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of subtitle 1 of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to

whether the child remains at imminent risk of removal from the home.

ADOPTION AND GUARDIANSHIP ASSISTANCE PROGRAM

SEC. 473. (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

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

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I)(aa)(AA) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(BB) met the requirements of section 472(a)(3) with respect to the home referred to in subitem (AA) of this item;

(bb) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

(II) has been determined by the State, pursuant to subsection (c)(1) of this section, to be a child with special needs; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child—

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs.

(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I) meets the requirements of subparagraph (A)(i)(II);

(II) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(III) is available for adoption because—

(aa) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(bb) the child's adoptive parents have died; and

(IV) fails to meet the requirements of subparagraph (A)(i) but would meet such requirements if—

(aa) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(bb) the prior adoption were treated as never having occurred; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died.

(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 471(a)(28), the placement of the child with the relative guardian involved and any kinship guardianship assist-

ance payments made on behalf of the child shall be considered never to have been made.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

(i) who has attained—

(I) 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii); or

(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

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

(i) would be considered a child with special needs under subsection (c)(2);

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

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

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

(8)(A) A State shall calculate the savings (if any) resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, using a methodology specified by the Secretary or an alternate methodology proposed by the State and approved by the Secretary.

(B) A State shall annually report to the Secretary—

(i) the methodology used to make the calculation described in subparagraph (A), without regard to whether any savings are found;

(ii) the amount of any savings referred to in subparagraph (A); and

(iii) how any such savings are spent, accounting for and reporting the spending separately from any other spending reported to the Secretary under part B or this part.

(C) The Secretary shall make all information reported pursuant to subparagraph (B) available on the website of the Department of Health and Human Services in a location easily accessible to the public.

(D)(i) A State shall spend an amount equal to the amount of the savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, to provide to children of families any service that may be provided under part B or this part. A State shall spend not less than 30 percent of any such savings on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least  $\frac{2}{3}$  of the spending by the State to comply with such 30 percent requirement being spent on post-adoption and post-guardianship services.

(ii) Any State spending required under clause (i) shall be used to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or this part.

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

(2) For purposes of subtitle 1 of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

- (3) A child described in this paragraph is any child—
- (A)(i) who is a child described in subsection (a)(2), and
  - (ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),
  - (B) with respect to whom foster care maintenance payments are being made under section 472, or
  - (C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).
- (4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.
- (c) For purposes of this section—
- (1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—
    - (A) the State has determined that the child cannot or should not be returned to the home of his parents; and
    - (B) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX; or
  - (2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—
    - (A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;
    - (B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing

adoption assistance under this section and medical assistance under title XIX; or

(ii) the child meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; and

(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.—

(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—In order to receive payments under section 474(a)(5), a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) MINIMUM REQUIREMENTS.—The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000.

(C) INTERSTATE APPLICABILITY.—The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) NO EFFECT ON FEDERAL REIMBURSEMENT.—Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) LIMITATIONS ON AMOUNT OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—



(A) IN GENERAL.—A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.

(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) TREATMENT OF SIBLINGS.—With respect to a child described in subparagraph (A) whose sibling or siblings are not so described—

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(C) ELIGIBILITY NOT AFFECTED BY REPLACEMENT OF GUARDIAN WITH A SUCCESSOR GUARDIAN.—In the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection shall not be affected by reason of the replacement of the relative guardian with a successor legal guardian named in the kinship guardianship assistance agreement referred to in paragraph (1) (including in any amendment to the agreement), notwithstanding subparagraph (A) of this paragraph and section 471(a)(28).

(e) APPLICABLE CHILD DEFINED.—

(1) ON THE BASIS OF AGE.—

(A) IN GENERAL.—Subject to paragraphs (2) and (3), in this section, the term “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

(B) APPLICABLE AGE.—For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

In the case of fiscal year:	The applicable age is:
2010 .....	16
2011 .....	14
2012 .....	12
2013 .....	10
2014 .....	8
2015 .....	6
2016 .....	4
2017 .....	2
2018 or thereafter .....	any age.

(2) EXCEPTION FOR DURATION IN CARE.—Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) EXCEPTION FOR MEMBER OF A SIBLING GROUP.—Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child—

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).

**SEC. 473A. ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENTS.**

(a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption and legal guardianship incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

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

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

(2) the State is in compliance with subsection (c) for the fiscal year;

(3) the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and

(4) the fiscal year is any of fiscal years 2013 through 2015.

(c) DATA REQUIREMENTS.—

(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and

(B) for each succeeding fiscal year that precedes the fiscal year.

(2) DETERMINATION OF RATES OF ADOPTIONS AND GUARDIANSHIPS BASED ON AFCARS DATA.—The Secretary shall determine each of the rates required to be determined under this section with respect to a State and a fiscal year, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year, and, with respect to the determination of the rates related to foster child guardianships, on the basis of information reported to the Secretary under paragraph (12) of subsection (g).

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

(d) ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the adoption and legal guardianship incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

(A) \$5,000, multiplied by the amount (if any) by which—

(i) the number of foster child adoptions in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child adoptions for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year;

(B) \$7,500, multiplied by the amount (if any) by which—

(i) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 9 years of age but not 14 years of age; and

(C) \$10,000, multiplied by the amount (if any) by which—

(i) the number of older child adoptions and older foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of older child adoptions and older foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 14 years of age; and

(D) \$4,000, multiplied by the amount (if any) by which—

(i) the number of foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—For any fiscal year, if the total amount of adoption incentive payments otherwise payable under paragraph (1) for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under paragraph (1) for the fiscal year shall be—

(A) the amount of the adoption and legal guardianship incentive payment that would otherwise be payable to the State under paragraph (1) for the fiscal year; multiplied by

(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption and legal guardianship incentive payments otherwise payable under paragraph (1) for the fiscal year.

(3) INCREASED ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT FOR TIMELY ADOPTIONS.—

(A) IN GENERAL.—If for any of fiscal years 2013 through 2015, the total amount of adoption and legal guardianship incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year, then, from the remainder of the amount appropriated for the fiscal year that is not required for such payments (in this paragraph referred to as the “timely adoption award pool”), the Secretary shall increase the adoption incentive payment determined under paragraph (1) for each State that the Secretary determines is a timely adoption award State for the fiscal year by the award amount determined for the fiscal year under subparagraph (C).

(B) TIMELY ADOPTION AWARD STATE DEFINED.—A State is a timely adoption award State for a fiscal year if the Secretary determines that, for children who were in foster care under the supervision of the State at the time of

adoptive placement, the average number of months from removal of children from their home to the placement of children in finalized adoptions is less than 24 months.

(C) AWARD AMOUNT.—For purposes of subparagraph (A), the award amount determined under this subparagraph with respect to a fiscal year is the amount equal to the timely adoption award pool for the fiscal year divided by the number of timely adoption award States for the fiscal year.

(e) 36-MONTH AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State for the 36-month period beginning with the month in which the payments are made.

(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E, and shall use the amount to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 424, 434, and 474.

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

(1) FOSTER CHILD ADOPTION RATE.—The term “foster child adoption rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child adoptions finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) BASE RATE OF FOSTER CHILD ADOPTIONS.—The term “base rate of foster child adoptions” means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child adoption rate for the State for the then immediately preceding fiscal year; or

(B) the foster child adoption rate for the State for the average of the then immediately preceding 3 fiscal years.

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

(4) PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP RATE.—The term “pre-adolescent child adoption and pre-adolescent foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 9 years of age but not 14 years of age.

(5) **BASE RATE OF PRE-ADOLESCENT CHILD ADOPTIONS AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIPS.**—The term “base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(6) **PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP.**—The term “pre-adolescent child adoption and pre-adolescent foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 9 years of age but not 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(7) **OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP RATE.**—The term “older child adoption and older foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of older child adoptions and older foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 14 years of age.

(8) **BASE RATE OF OLDER CHILD ADOPTIONS AND OLDER FOSTER CHILD GUARDIANSHIPS.**—The term “base rate of older child adoptions and older foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the older child adoption and older foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the older child adoption and older foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(9) **OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP.**—The term “older child adoption and older foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(10) **FOSTER CHILD GUARDIANSHIP RATE.**—The term “foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

- (A) the number of foster child guardianships occurring in the State during the fiscal year; by
  - (B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.
- (11) **BASE RATE OF FOSTER CHILD GUARDIANSHIPS.**—The term “base rate of foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—
- (A) the foster child guardianship rate for the State for the then immediately preceding fiscal year; or
  - (B) the foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.
- (12) **FOSTER CHILD GUARDIANSHIP.**—The term “foster child guardianship” means, with respect to a State, the exit of a child from foster care under the responsibility of the State to live with a legal guardian, if the State has reported to the Secretary—
- (A) that the State agency has determined that—
    - (i) the child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;
    - (ii) being returned home or adopted are not appropriate permanency options for the child;
    - (iii) the child demonstrates a strong attachment to the prospective legal guardian, and the prospective legal guardian has a strong commitment to caring permanently for the child; and
    - (iv) if the child has attained 14 years of age, the child has been consulted regarding the legal guardianship arrangement; or
  - (B) the alternative procedures used by the State to determine that legal guardianship is the appropriate option for the child.
- (h) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—
- (1) **IN GENERAL.**—For grants under subsection (a), there are authorized to be appropriated to the Secretary—
    - (A) \$20,000,000 for fiscal year 1999;
    - (B) \$43,000,000 for fiscal year 2000;
    - (C) \$20,000,000 for each of fiscal years 2001 through 2003; and
    - (D) \$43,000,000 for each of fiscal years 2004 through 2016.
  - (2) **AVAILABILITY.**—Amounts appropriated under paragraph (1), or under any other law for grants under subsection (a), are authorized to remain available until expended, but not after fiscal year 2016.
- (i) **TECHNICAL ASSISTANCE.**—
- (1) **IN GENERAL.**—The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption

is not possible, alternative permanent placements, for children in foster care.

(2) DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.—The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

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

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

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

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

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

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

(3) TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS.—Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

(4) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 2004 through 2006.

#### PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

(1) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(2) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 per-



cent, in the case of the District of Columbia) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(3) subject to section 472(i) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents or relative guardians, the members of the staff of State-licensed or State-approved child care institutions providing care, or State-licensed or State-approved child welfare agencies providing services, to children receiving assistance under this part, and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts, in ways that increase the ability of such current or prospective parents, guardians, staff members, institutions, attorneys, and advocates to provide support and assistance to foster and adopted children and children living with relative guardians, whether incurred directly by the State or by contract,

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of state-wide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus

(4) an amount equal to the amount (if any) by which—

(A) the lesser of—

(i) 80 percent of the amounts expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); or

(ii) the amount allotted to the State under section 477(c)(1) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year; exceeds

(B) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; plus

(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 473(d) pursuant to kinship guardianship assistance agreements.

(b)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with subsection (a), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

- (i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or
- (ii) in any other case, allow the claim, subject to disallowance (as necessary)—

(I) upon completion of the review, if it is determined that the claim is not allowable; or

(II) on the basis of findings of an audit or financial management review.

(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated paragraph (18) or (23) of section 471(a) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

(2) Any other entity which is in a State that receives funds under this part and which violates paragraph (18) or (23) of section 471(a) during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(e) DISCRETIONARY GRANTS FOR EDUCATIONAL AND TRAINING VOUCHERS FOR YOUTHS AGING OUT OF FOSTER CARE.—From amounts appropriated pursuant to section 477(h)(2), the Secretary may make a grant to a State with a plan approved under this part, for a calendar quarter, in an amount equal to the lesser of—

(1) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in section 477(a)(6); or

(2) the amount, if any, allotted to the State under section 477(c)(3) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this subsection for such purposes for all prior quarters in the fiscal year.

(f)(1) If the Secretary finds that a State has failed to submit to the Secretary data, as required by regulation, for the data collection system implemented under section 479, the Secretary shall, within 30 days after the date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

(A)  $\frac{1}{6}$  of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

(B)  $\frac{1}{4}$  of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.

(g) For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State

under section 1130, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.

#### 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) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

(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.

(C) The health and education records of the child, including the most recent information available regarding—

- (i) the names and addresses of the child’s health and educational providers;
- (ii) the child’s grade level performance;
- (iii) the child’s school record;
- (iv) a record of the child’s immunizations;
- (v) the child’s known medical problems;
- (vi) the child’s medications; and
- (vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) 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 a successful adulthood.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 8101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term “parents” means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term “adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

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

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, 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 and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);

(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 ar-



rangement, 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 14, the services needed to assist the child to make the transition from foster care to 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; (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 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;

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition

has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

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

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child;

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

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home;

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect; and

(I) each child in foster care under the responsibility of the State who has attained 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, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report, and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and a driver's license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term "legal guardianship" means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term "legal guardian" means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term "child" means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 473 if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

(iv) who is—

(I) completing secondary education or a program leading to an equivalent credential;

(II) enrolled in an institution which provides post-secondary or vocational education;

(III) participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(9) The term “sex trafficking victim” means a victim of—

(A) sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000); or

(B) a severe form of trafficking in persons described in section 103(9)(A) of such Act.

(10)(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.

(11)(A) The term “age or developmentally-appropriate” means—

(i) 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

(ii) 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.

(B) In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this part or part B shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school.

(12) The term “sibling” means an individual who satisfies at least one of the following conditions with respect to a child:

(A) The individual is considered by State law to be a sibling of the child.

(B) The individual would have been considered a sibling of the child under State law but for a termination or other disruption of parental rights, such as the death of a parent.

**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 determined for the child under section 475(5)(C), 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 the children.

(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 that—

(A) the child's foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(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—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 475(5)(I) in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) 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.

TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) TECHNICAL ASSISTANCE AND IMPLEMENTATION SERVICES FOR TRIBAL PROGRAMS.—

(1) AUTHORITY.—The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) ASSISTANCE PROVIDED.—

(A) IN GENERAL.—The technical assistance and implementation services shall be to—

(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 479B; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 422(b)(9), 471(a)(32), or 477(b)(3)(G); and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to the Secretary a plan under section 471 to implement a program under this part as authorized by section 479B, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 471 to carry out a program under section 479B, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system require-

ments under section 475(5), or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) GRANT CONDITION.—

(i) IN GENERAL.—As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 471 to carry out a program under section 479B by the end of the 24-month period described in that subparagraph.

(ii) EXCEPTION.—The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) IMPLEMENTATION AUTHORITY.—The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) APPROPRIATION.—There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

**SEC. 477. JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.**

(a) PURPOSE.—The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

(1) to identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;

(3) to help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;

(4) to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults;

(5) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and

to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;

(6) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care;

(7) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption; and

(8) to ensure children who are likely to remain in foster care until 18 years of age have regular, ongoing opportunities to engage in age or developmentally-appropriate activities as defined in section 475(11).

(b) APPLICATIONS.—

(1) IN GENERAL.—A State may apply for funds from its allotment under subsection (c) for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) STATE PLAN.—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping adolescents in foster care achieve independence.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) CERTIFICATIONS.—The certifications required by this paragraph with respect to a plan are the following:

(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room



or board for any child who has not attained 18 years of age.

(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.

(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.

(H) A certification by the chief executive officer of the State that the State will ensure that adolescents participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the adolescents accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce

standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State educational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use—

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5); and

(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program.

(K) A certification by the chief executive officer of the State that the State will ensure that an adolescent participating in the program under this section are provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the adolescent if the adolescent becomes unable to participate in such decisions and the adolescent does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the adolescent wants to do so.

(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) AVAILABILITY.—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) ALLOTMENTS TO STATES.—

(1) GENERAL PROGRAM ALLOTMENT.—From the amount specified in subsection (h)(1) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the ratio to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2).

(2) HOLD HARMLESS PROVISION.—

(A) IN GENERAL.—The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) RATABLE REDUCTION OF CERTAIN ALLOTMENTS.—In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) VOUCHER PROGRAM ALLOTMENT.—From the amount, if any, appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) STATE FOSTER CARE RATIO.—In this subsection, the term “State foster care ratio” means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) TWO-YEAR AVAILABILITY OF FUNDS.—Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year.

(4) REALLOCATION OF UNUSED FUNDS.—If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary, the funds to which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary.

(e) PENALTIES.—

(1) USE OF GRANT IN VIOLATION OF THIS PART.—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is in-

consistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.—The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

(f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.—

(1) IN GENERAL.—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after the date of the enactment of this section.

(2) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1) and a proposal to impose penalties consistent with paragraph (e)(2) on States that do not report data.

(g) EVALUATIONS.—

(1) IN GENERAL.—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for

conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) FUNDING OF EVALUATIONS.—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section and for payments to States under section 474(a)(4), there are authorized to be appropriated to the Secretary for each fiscal year—

(1) \$140,000,000 or, beginning in fiscal year 2020, \$143,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.

(i) EDUCATIONAL AND TRAINING VOUCHERS.—The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section.

(2) For purposes of the voucher program, youths who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program.

(4) The voucher or vouchers provided for an individual under this section—

(A) may be available for the cost of attendance at an institution of higher education, as defined in section 102 of the Higher Education Act of 1965; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 472 of that Act.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.

(j) AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGANIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN ALLOTMENT.—

(1) IN GENERAL.—An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

(2) APPLICATION.—A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which a portion of an allotment under subsection (c) would be redirected to the tribe, organization, or consortium; and

(C) contains an explanation of the results of such consultation, particularly with respect to—

(i) determining the eligibility for benefits and services of Indian children to be served under the programs to be carried out under the plan; and

(ii) the process for consulting with the State in order to ensure the continuity of benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

(3) PAYMENTS.—The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 474(a)(4) (and, where requested, and if funds are appropriated, section 474(e)) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

(4) ALLOTMENT.—From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, orga-

nization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under section 477(c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

(5) TRIBAL FOSTER CARE RATIO.—For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

(B) the sum of—

(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or under supervision of the State) that have a plan approved under this subsection.

\* \* \* \* \*

**SEC. 479A. ANNUAL REPORT.**

(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) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part;

(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;

(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) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child;

(B) the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year as a percentage of the total number of the visits that would occur during the fiscal year if each child were so visited once every month while in such care; and

(C) the percentage of the visits that occurred in the residence of the child; and

(7) include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on—

(A) children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including—

(i) 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;

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

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

(iv) 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;

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

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

(B) 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.

**SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.**

(a) **DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS.**—In this section, the terms “Indian tribe” and “tribal organization” have



the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) **AUTHORITY.**—Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 471 in accordance with this section.

(c) **PLAN REQUIREMENTS.**—

(1) **IN GENERAL.**—An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 471 the following:

(A) **FINANCIAL MANAGEMENT.**—Evidence demonstrating that the tribe, organization, or consortium has not had any uncorrected significant or material audit exceptions under Federal grants or contracts that directly relate to the administration of social services for the 3-year period prior to the date on which the plan is submitted.

(B) **SERVICE AREAS AND POPULATIONS.**—For purposes of complying with section 471(a)(3), a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

(C) **ELIGIBILITY.**—

(i) **IN GENERAL.**—Subject to clause (ii) of this subparagraph, an assurance that the plan will provide—

(I) foster care maintenance payments under section 472 only on behalf of children who satisfy the eligibility requirements of section 472(a);

(II) adoption assistance payments under section 473 pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section; and

(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 473(d) only on behalf of children who meet the requirements of section 473(d)(3).

(ii) **SATISFACTION OF FOSTER CARE ELIGIBILITY REQUIREMENTS.**—For purposes of determining whether a child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 471 in accordance with this section satisfies the requirements of section 472(a), the following shall apply:

(I) **USE OF AFFIDAVITS, ETC.**—Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 472(a) shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the

child judicial determinations required under that paragraph.

(II) AFDC ELIGIBILITY REQUIREMENT.—The State plan approved under section 402 (as in effect on July 16, 1996) of the State in which the child resides at the time of removal from the home shall apply to the determination of whether the child satisfies section 472(a)(3).

(D) OPTION TO CLAIM IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING COSTS DURING INITIAL IMPLEMENTATION PERIOD.—Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 474(a)(3). The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

(i) NO EFFECT ON AUTHORITY FOR TRIBES, ORGANIZATIONS, OR CONSORTIA TO CLAIM EXPENDITURES OR INDIRECT COSTS TO THE SAME EXTENT AS STATES.—Nothing in this subparagraph shall be construed as preventing a tribe, organization, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 474(a) that a State with a plan approved under section 471(a) could claim for such purposes.

(ii) FISCAL YEAR 2010 OR 2011.—

(I) EXPENDITURES OTHER THAN FOR TRAINING.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 474(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required under this subparagraph to be submitted with the plan.

(II) TRAINING EXPENDITURES.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 474(a)(3), not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

(III) SOURCES DESCRIBED.—For purposes of subclause (II), the sources described in this subclause are the following:

- (aa) A State or local government.
  - (bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.
  - (cc) A public institution of higher education.
  - (dd) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)).
  - (ee) A private charitable organization.
- (iii) FISCAL YEAR 2012, 2013, OR 2014.—

(I) IN GENERAL.—Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

(II) TRANSITION PERIOD FOR EARLY APPROVED TRIBES, ORGANIZATIONS, OR CONSORTIA.—Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the earlier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

(III) DEFINITION OF EARLY APPROVED TRIBE, ORGANIZATION, OR CONSORTIUM.—For purposes of subclause (II) of this clause, the term “early approved tribe, organization, or consortium” means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 471 in accordance with this section for any quarter of fiscal year 2010 or 2011.

(iv) FISCAL YEAR 2015 AND THEREAFTER.—Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any subparagraph of such section 474(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

(v) CONTINGENCY RULE.—If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for under section 474(a)(3) of this Act, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise—

(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under section 471(a) of this Act could not claim in-kind expenditures from third-party sources for such purposes.

(2) CLARIFICATION OF TRIBAL AUTHORITY TO ESTABLISH STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND TRIBAL CHILD CARE INSTITUTIONS.—For purposes of complying with section 471(a)(10), an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

(3) CONSORTIUM.—The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

(d) DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE PAYMENTS.—

(1) PER CAPITA INCOME.—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), and (5) of section 474(a), the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

(2) CONSIDERATION OF OTHER INFORMATION.—Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

(e) NONAPPLICATION TO COOPERATIVE AGREEMENTS AND CONTRACTS.—Any cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under this part that is in effect as of the date of enactment of this section shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

(f) JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—Except as provided in section 477(j), subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 477 (or with respect to payments made under section 474(a)(4) or grants made under section 474(e)).

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting the application of section 472(h) to a child on whose behalf payments are paid under section 472, or the application of section 473(b) to a child on whose behalf payments are made under section 473 pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.

\* \* \* \* \*

**B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED**

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed 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 italics, existing law in which no change is proposed is shown in roman):

**CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed 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 italics, and 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-WELFARE 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) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

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

(1) provide that (A) the individual or agency that administers or supervises the administration of the State’s services program under subtitle 1 of title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under subtitle 1 of title XX, under the State program

funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;

(4) contain a description of—

(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

(B) the child welfare services staff development and training plans of the State;

(5) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State;

(6) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require;

(7) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed;

(8) provide assurances that the State—

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

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

(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) where safe and appropriate, return to families from which they have been removed; or

(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

(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain safely with their families; and

- (B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;
- (9) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act;
- (10) contain assurances that the State shall make effective use of cross-jurisdictional resources (including through contracts for the purchase of services), and shall eliminate legal barriers, to facilitate timely adoptive or permanent placements for waiting children;
- (11) contain a description of the activities that the State has undertaken for children adopted from other countries, including the provision of adoption and post-adoption services;
- (12) provide that the State shall collect and report information on children who are adopted from other countries and who enter into State custody as a result of the disruption of a placement for adoption or the dissolution of an adoption, including the number of children, the agencies who handled the placement or adoption, the plans for the child, and the reasons for the disruption or dissolution;
- (13) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A;
- (14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;
- (15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of—
- (i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;
  - (ii) how health needs identified through screenings will be monitored and treated, including emotional trauma associated with a child's maltreatment and removal from home;



(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

(iv) steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care;

(v) the oversight of prescription medicines, including protocols for the appropriate use and monitoring of psychotropic medications;

(vi) how the State actively consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children; **[and]**

*(vii) the procedures and protocols the State has established to ensure that children in foster care placements are not inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and placed in settings that are not foster family homes as a result of the inappropriate diagnoses; and*

**[(vii)]** *(viii) steps to ensure that the components of the transition plan development process required under section 475(5)(H) that relate to the health care needs of children aging out of foster care, including the requirements to include options for health insurance, information about a health care power of attorney, health care proxy, or other similar document recognized under State law, and to provide the child with the option to execute such a document, are met; and*

(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with respect to whom services are provided under the State plan developed pursuant to this subpart;

(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

(D) preserve essential program records; and

(E) coordinate services and share information with other States;

(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children;

(18) include a description of the activities that the State has undertaken to reduce the length of time children who have not attained 5 years of age are without a permanent family, and the activities the State undertakes to address the developmental needs of [such children] *all vulnerable children under 5 years of age* who receive benefits or services under this part or part E; and

[(19) contain a description of the sources used to compile information on child maltreatment deaths required by Federal law to be reported by the State agency referred to in paragraph (1), and to the extent that the compilation does not include information on such deaths from the State vital statistics department, child death review teams, law enforcement agencies, or offices of medical examiners or coroners, the State shall describe why the information is not so included and how the State will include the information.]

(19) *document steps taken to track and prevent child maltreatment deaths by including—*

(A) *a description of the steps the State is taking to compile complete and accurate information on the deaths required by Federal law to be reported by the State agency referred to in paragraph (1), including gathering relevant information on the deaths from the relevant organizations in the State including entities such as State vital statistics department, child death review teams, law enforcement agencies, offices of medical examiners or coroners; and*

(B) *a description of the steps the state is taking to develop and implement of a comprehensive, statewide plan to prevent the fatalities that involves and engages relevant public and private agency partners, including those in public health, law enforcement, and the courts.*

(c) DEFINITIONS.—In this subpart:

(1) ADMINISTRATIVE COSTS.—The term “administrative costs” means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.

\* \* \* \* \*

## LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

SEC. 425. To carry out this subpart (other than sections 426, 427, and 429), there are authorized to be appropriated to the Secretary not more than \$325,000,000 for each of fiscal years **[2012 through 2016]** *2017 through 2021*.

\* \* \* \* \*

## Subpart 2—Promoting Safe and Stable Families

### SEC. 430. PURPOSE.

The purpose of this program is to enable States to develop and establish, or expand, and to operate coordinated programs of community-based family support services, family preservation services, **[time-limited]** family reunification services, and adoption promotion and support services to accomplish the following objectives:

- (1) To prevent child maltreatment among families at risk through the provision of supportive family services.
- (2) To assure children's safety within the home and preserve intact families in which children have been maltreated, when the family's problems can be addressed effectively.
- (3) To address the problems of families whose children have been placed in foster care so that reunification may occur in a safe and stable manner in accordance with the Adoption and Safe Families Act of 1997.
- (4) To support adoptive families by providing support services as necessary so that they can make a lifetime commitment to their children.

### SEC. 431. DEFINITIONS.

(a) IN GENERAL.—As used in this subpart:

- (1) FAMILY PRESERVATION SERVICES.—The term “family preservation services” means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—
  - (A) service programs designed to help children—
    - (i) where safe and appropriate, return to families from which they have been removed; or
    - (ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for a child, in some other planned, permanent living arrangement;
  - (B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain safely with their families;
  - (C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;
  - (D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents);
  - (E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to

matters such as child development, family budgeting, coping with stress, health, and nutrition; and

(F) infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a State law.

(2) FAMILY SUPPORT SERVICES.—

(A) IN GENERAL.—The term “family support services” means community-based services designed to carry out the purposes described in subparagraph (B).

(B) PURPOSES DESCRIBED.—The purposes described in this subparagraph are the following:

(i) To promote the safety and well-being of children and families.

(ii) To increase the strength and stability of families (including adoptive, foster, and extended families).

*(iii) To support and retain foster families so they can provide quality family-based settings for children in foster care.*

[(iii)] *(iv)* To increase parents’ confidence and competence in their parenting abilities.

[(iv)] *(v)* To afford children a safe, stable, and supportive family environment.

[(v)] *(vi)* To strengthen parental relationships and promote healthy marriages.

[(vi)] *(vii)* To enhance child development, including through mentoring (as defined in section 439(b)(2)).

(3) STATE AGENCY.—The term “State agency” means the State agency responsible for administering the program under subpart 1.

(4) STATE.—The term “State” includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 428(c).

(6) TRIBAL ORGANIZATION.—The term “tribal organization” has the meaning given the term in section 428(c).

(7) [TIME-LIMITED FAMILY] FAMILY REUNIFICATION SERVICES.—

(A) IN GENERAL.—The term “[time-limited family] family reunification services” means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child’s home and placed in a foster family home or a child care institution *or a child who has been returned home* and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion[, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care] *and to ensure the strength and stability of the reunification. In the case of a child who has been returned home, the services and activities shall only be provided during the 15-month period that begins on the date that the child returns home.*

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

- (i) Individual, group, and family counseling.
- (ii) Inpatient, residential, or outpatient substance abuse treatment services.
- (iii) Mental health services.
- (iv) Assistance to address domestic violence.
- (v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.
- (vi) Peer-to-peer mentoring and support groups for parents and primary caregivers.
- (vii) Services and activities designed to facilitate access to and visitation of children by parents and siblings.
- (viii) Transportation to or from any of the services and activities described in this subparagraph.

(8) ADOPTION PROMOTION AND SUPPORT SERVICES.—The term “adoption promotion and support services” means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

(9) NON-FEDERAL FUNDS.—The term “non-Federal funds” means State funds, or at the option of a State, State and local funds.

(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

**SEC. 432. STATE PLANS.**

(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

(C) contains assurances that the State—

(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward

- accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;
- (3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;
- (4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services, community-based family support services, **[time-limited]** family reunification services, and adoption promotion and support services, with significant portions of such expenditures for each such program;
- (5) contains assurances that the State will—
- (A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services, community-based family support services, **[time-limited]** family reunification services, and adoption promotion and support services) of—
- (i) the service programs to be made available under the plan in the immediately succeeding fiscal year;
- (ii) the populations which the programs will serve; and
- (iii) the geographic areas in the State in which the services will be available; and
- (B) perform the activities described in subparagraph (A)—
- (i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and
- (ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;
- (6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;
- (7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and
- (B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A);
- (8)(A) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require; and
- (B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

(i) copies of form CFS-101 (including all parts and any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

(ii) copies of form CFS-101 (including all parts and any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

(I) the numbers of families and of children served by the State agency;

(II) the population served by the State agency;

(III) the geographic areas served by the State agency; and

(IV) the actual expenditures of funds provided to the State agency;

(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern; and

(10) describes how the State identifies which populations are at the greatest risk of maltreatment and how services are targeted to the populations.

(b) APPROVAL OF PLANS.—

(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation, family support, [time-limited] family reunification, and adoption promotion and support services).

(2) PLANS OF INDIAN TRIBES OR TRIBAL CONSORTIA.—

(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—

The Secretary may exempt a plan submitted by an Indian tribe or tribal consortium from the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements would be inappropriate to apply to the Indian tribe or tribal consortium, taking into account the resources, needs, and other circumstances of the Indian tribe or tribal consortium.

(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe or tribal consortium under this subpart to which (but for this subparagraph) an allotment of less than \$10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes and tribal consortia with plans approved under this subpart with the same or larger numbers of children.

(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Com-

mittee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) INFORMATION TO BE INCLUDED.—The compilation shall include the individual State reports and tables that synthesize State information into national totals for each element required to be included in the reports, including planned and actual spending by service category for the program authorized under this subpart and planned spending by service category for the program authorized under subpart 1.

(3) PUBLIC ACCESSIBILITY.—Not later than September 30 of each year, the Secretary shall publish the compilation on the website of the Department of Health and Human Services in a location easily accessible by the public.

\* \* \* \* \*

**SEC. 436. AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.**

(a) AUTHORIZATION.—In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart \$345,000,000 [for each of fiscal years 2012 through 2016.] *for each of fiscal years 2017 through 2021.*

(b) RESERVATION OF CERTAIN AMOUNTS.—From the amount specified in subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve \$6,000,000 for expenditure by the Secretary—

(A) for research, training, and technical assistance costs related to the program under this subpart; and

(B) for evaluation of State programs based on the plans approved under section 432 and funded under this subpart, and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the State programs.

(2) STATE COURT IMPROVEMENTS.—The Secretary shall reserve \$30,000,000 for grants under section 438.

(3) INDIAN TRIBES OR TRIBAL CONSORTIA.—After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the Secretary shall reserve 3 percent for allotment to Indian tribes or tribal consortia in accordance with section 433(a).

(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e) \$20,000,000 for each of fiscal years [2012 through 2016] *2017 through 2021.*

(B) USE OF FUNDS.—

(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to improve the quality of monthly caseworker visits with children who are in foster care under the responsibility of the State, with an emphasis on improving caseworker decision making on the safety, permanency, and well-being of foster children



and on activities designed to increase retention, recruitment, and training of caseworkers.

(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).

(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f) \$20,000,000 for each of fiscal years ~~【2012 through 2016】~~ *2017 through 2021*.

(c) *SUPPORT FOR FOSTER FAMILY HOMES.*—*Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2018, \$8,000,000 for the Secretary to make competitive grants to States, Indian tribes, or tribal consortia to support the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings, focused on States, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings. The amount appropriated under this subparagraph shall remain available through fiscal year 2022.*

**SEC. 437. DISCRETIONARY AND TARGETED GRANTS.**

(a) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to any amount appropriated pursuant to section 436, there are authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years ~~【2012 through 2016】~~ *2017 through 2021*.

(b) RESERVATION OF CERTAIN AMOUNTS.—From the amount (if any) appropriated pursuant to subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve 3.3 percent for expenditure by the Secretary for the activities described in section 436(b)(1).

(2) STATE COURT IMPROVEMENTS.—The Secretary shall reserve 3.3 percent for grants under section 438.

(3) INDIAN TRIBES OR TRIBAL CONSORTIA.—The Secretary shall reserve 3 percent for allotment to Indian tribes or tribal consortia in accordance with subsection (c)(1).

(4) *IMPROVING THE INTERSTATE PLACEMENT OF CHILDREN.*—*The Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 2017 for grants under subsection (g), and the amount so reserved shall remain available through fiscal year 2021.*

(c) ALLOTMENTS.—

(1) INDIAN TRIBES OR TRIBAL CONSORTIA.—From the amount (if any) reserved pursuant to subsection (b)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary. If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the

sum of the allotments determined for each Indian tribe that is part of the consortium.

(2) TERRITORIES.—From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423.

(3) OTHER STATES.—From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) and paragraph (2) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in paragraph (2) of this subsection an amount equal to such remaining amount multiplied by the supplemental nutrition assistance program benefits percentage (as defined in section 433(c)(2)) of the State for the fiscal year.

(d) GRANTS.—The Secretary may make a grant to a State which has a plan approved under this subpart in an amount equal to the lesser of—

(1) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

(2) the allotment of the State under subsection (c) for the fiscal year.

(e) APPLICABILITY OF CERTAIN RULES.—The rules of subsections (b) and (c) of section 434 shall apply in like manner to the amounts made available pursuant to subsection (a).

(f) TARGETED GRANTS TO **INCREASE THE WELL-BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY** *IMPLEMENT IV-E PREVENTION SERVICES, AND IMPROVE THE WELL-BEING OF, AND IMPROVE PERMANENCY OUTCOMES FOR, CHILDREN AND FAMILIES AFFECTED BY HEROIN, OPIOIDS, AND OTHER SUBSTANCE ABUSE.*—

(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's substance abuse.

**(2) REGIONAL PARTNERSHIP DEFINED.**—

**(A) IN GENERAL.**—In this subsection, the term “regional partnership” means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

**(i)** The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

**(ii)** The State agency responsible for administering the substance abuse prevention and treatment block

grant provided under subpart II of part B of title XIX of the Public Health Service Act.

[(iii) An Indian tribe or tribal consortium.

[(iv) Nonprofit child welfare service providers.

[(v) For-profit child welfare service providers.

[(vi) Community health service providers.

[(vii) Community mental health providers.

[(viii) Local law enforcement agencies.

[(ix) Judges and court personnel.

[(x) Juvenile justice officials.

[(xi) School personnel.

[(xii) Tribal child welfare agencies (or a consortia of such agencies).

[(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

**[(B) REQUIREMENTS.—**

[(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

[(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

[(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

[(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

[(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).]

(2) *REGIONAL PARTNERSHIP DEFINED.—In this subsection, the term “regional partnership” means a collaborative agreement (which may be established on an interstate, State, or intrastate basis) entered into by the following:*

(A) *MANDATORY PARTNERS FOR ALL PARTNERSHIP GRANTS.—*

(i) *The State child welfare agency that is responsible for the administration of the State plan under this part and part E.*

(ii) *The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.*

(B) *MANDATORY PARTNERS FOR PARTNERSHIP GRANTS PROPOSING TO SERVE CHILDREN IN OUT-OF-HOME PLACE-*

*MENTS.—If the partnership proposes to serve children in out-of-home placements, the Juvenile Court or Administrative Office of the Court that is most appropriate to oversee the administration of court programs in the region to address the population of families who come to the attention of the court due to child abuse or neglect.*

*(C) OPTIONAL PARTNERS.—At the option of the partnership, any of the following:*

- (i) An Indian tribe or tribal consortium.*
- (ii) Nonprofit child welfare service providers.*
- (iii) For-profit child welfare service providers.*
- (iv) Community health service providers, including substance abuse treatment providers.*
- (v) Community mental health providers.*
- (vi) Local law enforcement agencies.*
- (vii) School personnel.*
- (viii) Tribal child welfare agencies (or a consortia of the agencies).*
- (ix) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under a State plan approved under this subpart.*

*(D) EXCEPTION FOR REGIONAL PARTNERSHIPS WHERE THE LEAD APPLICANT IS AN INDIAN TRIBE OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—*

- (i) may (but is not required to) include the State child welfare agency as a partner in the collaborative agreement;*
- (ii) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of the agencies); and*
- (iii) if the condition described in paragraph (2)(B) applies, may include tribal court organizations in lieu of other judicial partners.*

**(3) AUTHORITY TO AWARD GRANTS.—**

**(A) IN GENERAL.—**In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years **【2012 through 2016】** *2017 through 2021* under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than **【\$500,000 and not more than \$1,000,000】** *\$250,000 and not more than \$1,000,000* per grant per fiscal year.

**(B) REQUIRED MINIMUM PERIOD OF APPROVAL; PLANNING.—**

**(i) IN GENERAL.—**A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years, subject to **【clause (ii)】** *clauses (ii) and (iii).*

**(ii) EXTENSION OF GRANT.—**On application of the grantee, the Secretary may extend for not more than

2 fiscal years the period for which a grant is awarded under this subsection.

(iii) *SUFFICIENT PLANNING.*—A grant awarded under this subsection shall be disbursed in 2 phases: a planning phase (not to exceed 2 years); and an implementation phase. The total disbursement to a grantee for the planning phase may not exceed \$250,000, and may not exceed the total anticipated funding for the implementation phase.

(C) *MULTIPLE GRANTS ALLOWED.*—This subsection shall not be interpreted to prevent a grantee from applying for, or being awarded, separate grants under this subsection.

(D) *LIMITATION ON PAYMENT FOR A FISCAL YEAR.*—No payment shall be made under subparagraph (A) or (C) for a fiscal year until the Secretary determines that the eligible partnership has made sufficient progress in meeting the goals of the grant and that the members of the eligible partnership are coordinating to a reasonable degree with the other members of the eligible partnership.

(4) *APPLICATION REQUIREMENTS.*—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

(A) Recent evidence demonstrating that substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

(i) enhance the well-being of children, *parents, and families* receiving services or taking part in activities conducted with funds provided under the grant;

(ii) lead to **safe and permanent care** for such children; and **safe, permanent caregiving relationships for the children;**

(iii) *improve the substance abuse treatment outcomes for parents including retention in treatment and successful completion of treatment;*

(iv) *facilitate the implementation, delivery, and effectiveness of prevention services and programs under section 471(e); and*

**[(iii)]** (v) decrease the number of out-of-home placements for children, **[or] increase reunification rates for children who have been placed in out of home care, or decrease the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.**

(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and **[where appropriate,] the child's family.**

[(E) A description of the strategies for—

[(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

[(ii) consulting, as appropriate, with—

[(I) the State agency described in paragraph (2)(A)(ii); and

[(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

[(F) Such other information as the Secretary may require.]

*(E) A description of a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period, including through the use of prevention services and programs under section 471(e) and other funds provided to the State for child welfare and substance abuse prevention and treatment services.*

*(F) Additional information needed by the Secretary to determine that the proposed activities and implementation will be consistent with research or evaluations showing which practices and approaches are most effective.*

(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

(A) Family-based comprehensive long-term substance [abuse treatment] *use disorder treatment including medication assisted treatment and in-home substance abuse disorder treatment and recovery* services.

(B) Early intervention and preventative services.

(C) Children and family counseling.

(D) Mental health services.

(E) Parenting skills training.

(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

(6) MATCHING REQUIREMENT.—

(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

(ii) 80 percent for the third and fourth such fiscal years;

(iii) 75 percent for the fifth such fiscal year;

(iv) 70 percent for the sixth such fiscal year; and

(v) 65 percent for the seventh such fiscal year.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall take into consideration the extent to which applicant regional partnerships—

(A) demonstrate that substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

(B) have limited resources for addressing the needs of children affected by such abuse;

(C) have a lack of capacity for, or access to, comprehensive family treatment services; **[and]**

(D) *demonstrate a track record of successful collaboration among child welfare, substance abuse disorder treatment and mental health agencies; and*

**[(D)]** (E) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period.

(8) PERFORMANCE INDICATORS.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall **[establish indicators that will be]** *review indicators that are used to assess periodically the performance of the grant recipients under this subsection [in using funds made available under such grants to achieve the purpose of this subsection] and establish a set of core indicators related to child safety, parental recovery, parenting capacity, and family well-being. In developing the core indicators, to the extent possible, indicators shall be made consistent with the outcome measures described in section 471(e)(6).*

(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall *base the performance measures on lessons learned from prior rounds of regional partnership grants under this subsection, and* consult with the following:

(i) The Assistant Secretary for the Administration for Children and Families.

(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

**[(iii)]** Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

**[(iv)]** Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection. **]**

(iii) *Other stakeholders or constituencies as determined by the Secretary.*

(9) REPORTS.—

(A) GRANTEE REPORTS.—

[(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.]

(i) SEMIANNUAL REPORTS.—*Not later than September 30 of each fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and every 6 months thereafter, the grant recipient shall submit to the Secretary a report on the services provided and activities carried out during the reporting period, progress made in achieving the goals of the program, the number of children, adults, and families receiving services, and such additional information as the Secretary determines is necessary. The report due not later than September 30 of the last such fiscal year shall include, at a minimum, data on each of the performance indicators included in the evaluation of the regional partnership.*

(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

(B) REPORTS TO CONGRESS.—On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

(ii) the performance indicators established under paragraph (8); and

(iii) the progress that has been made in addressing the needs of families with substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.

(10) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF THE SECRETARY.—Not more than 5 percent of the amounts appropriated or reserved for awarding grants under



this subsection for each of fiscal years [2012 through 2016] 2017 through 2021 may be used by the Secretary for salaries and Department of Health and Human Services administrative expenses in administering this subsection.

(g) *GRANTS FOR THE DEVELOPMENT OF AN ELECTRONIC INTERSTATE CASE-PROCESSING SYSTEM TO EXPEDITE THE INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE OR GUARDIANSHIP, OR FOR ADOPTION.*—

(1) *PURPOSE.*—*The purpose of this subsection is to facilitate the development of an electronic interstate case-processing system for the exchange of data and documents to expedite the placements of children in foster, guardianship, or adoptive homes across State lines.*

(2) *APPLICATION REQUIREMENTS.*—*A State that desires a grant under this subsection shall submit to the Secretary an application containing the following:*

(A) *A description of the goals and outcomes to be achieved during the period for which grant funds are sought, which goals and outcomes must result in—*

(i) *reducing the time it takes for a child to be provided with a safe and appropriate permanent living arrangement across State lines;*

(ii) *improving administrative processes and reducing costs in the foster care system; and*

(iii) *the secure exchange of relevant case files and other necessary materials in real time, and timely communications and placement decisions regarding interstate placements of children.*

(B) *A description of the activities to be funded in whole or in part with the grant funds, including the sequencing of the activities.*

(C) *A description of the strategies for integrating programs and services for children who are placed across State lines.*

(D) *Such other information as the Secretary may require.*

(3) *GRANT AUTHORITY.*—*The Secretary may make a grant to a State that complies with paragraph (2).*

(4) *USE OF FUNDS.*—*A State to which a grant is made under this subsection shall use the grant to support the State in connecting with the electronic interstate case-processing system described in paragraph (1).*

(5) *EVALUATIONS.*—*Not later than 1 year after the final year in which grants are awarded under this subsection, the Secretary shall submit to the Congress, and make available to the general public by posting on a website, a report that contains the following information:*

(A) *How using the electronic interstate case-processing system developed pursuant to paragraph (4) has changed the time it takes for children to be placed across State lines.*

(B) *The number of cases subject to the Interstate Compact on the Placement of Children that were processed through the electronic interstate case-processing system, and the number of interstate child placement cases that were processed outside the electronic interstate case-processing system, by each State in each year.*

(C) *The progress made by States in implementing the electronic interstate case-processing system.*

(D) *How using the electronic interstate case-processing system has affected various metrics related to child safety and well-being, including the time it takes for children to be placed across State lines.*

(E) *How using the electronic interstate case-processing system has affected administrative costs and caseworker time spent on placing children across State lines.*

(6) **DATA INTEGRATION.**—*The Secretary, in consultation with the Secretariat for the Interstate Compact on the Placement of Children and the States, shall assess how the electronic interstate case-processing system developed pursuant to paragraph (4) could be used to better serve and protect children that come to the attention of the child welfare system, by—*

(A) *connecting the system with other data systems (such as systems operated by State law enforcement and judicial agencies, systems operated by the Federal Bureau of Investigation for the purposes of the Innocence Lost National Initiative, and other systems);*

(B) *simplifying and improving reporting related to paragraphs (34) and (35) of section 471(a) regarding children or youth who have been identified as being a sex trafficking victim or children missing from foster care; and*

(C) *improving the ability of States to quickly comply with background check requirements of section 471(a)(20), including checks of child abuse and neglect registries as required by section 471(a)(20)(B).*

**SEC. 438. ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.**

(a) **IN GENERAL.**—*The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E, for the purpose of enabling such courts—*

(1) *to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—*

(A) *that implement parts B and E;*

(B) *that determine the advisability or appropriateness of foster care placement;*

(C) *that determine whether to terminate parental rights;*

(D) *that determine whether to approve the adoption or other permanent placement of a child;*

(E) *that determine the best strategy to use to expedite the interstate placement of children, including—*

(i) *requiring courts in different States to cooperate in the sharing of information;*

(ii) *authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and*

- (iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and
- (2) to implement improvements the highest state courts deem necessary as a result of the assessments, including—
  - (A) to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105–89), including the requirements in the Act related to concurrent planning;
  - (B) to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act; and
  - (C) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption;
- (3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and
- (4)(A) to provide for the training of judges, attorneys and other legal personnel in child welfare cases; and
- (B) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption.

(b) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, *shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home*, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

(2) SINGLE GRANT APPLICATION.—Pursuant to the requirements under paragraph (1) of this subsection, a highest State court desiring a grant under this section shall submit a single application to the Secretary that specifies whether the application is for a grant for—

(A) the purposes described in paragraphs (1) and (2) of subsection (a);

(B) the purpose described in subsection (a)(3);

(C) the purpose described in subsection (a)(4); or

(D) the purposes referred to in 2 or more (specifically identified) of subparagraphs (A), (B), and (C) of this paragraph.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—With respect to each of subparagraphs (A), (B), and (C) of subsection (b)(2) that refers to 1 or more grant purposes for which an application of a highest State court is approved under this section, the court shall be entitled to payment, for each of fiscal years ~~2012 through 2016~~ *2017 through 2021*, from the amount allocated under paragraph (3) of this subsection for grants for the purpose or purposes, of an amount equal to \$85,000 plus the amount described in paragraph (2) of this subsection with respect to the purpose or purposes.

(2) AMOUNT DESCRIBED.—The amount described in this paragraph for any fiscal year with respect to the purpose or purposes referred to in a subparagraph of subsection (b)(2) is the amount that bears the same ratio to the total of the amounts allocated under paragraph (3) of this subsection for grants for the purpose or purposes as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under this section for grants for the purpose or purposes.

(3) ALLOCATION OF FUNDS.—

(A) MANDATORY FUNDS.—Of the amounts reserved under section 436(b)(2) for any fiscal year, the Secretary shall allocate—

(i) \$9,000,000 for grants for the purposes described in paragraphs (1) and (2) of subsection (a);

(ii) \$10,000,000 for grants for the purpose described in subsection (a)(3);

(iii) \$10,000,000 for grants for the purpose described in subsection (a)(4); and

(iv) \$1,000,000 for grants to be awarded on a competitive basis among the highest courts of Indian tribes or tribal consortia that—

(I) are operating a program under part E, in accordance with section 479B;

(II) are seeking to operate a program under part E and have received an implementation grant under section 476; or

(III) has a court responsible for proceedings related to foster care or adoption.

(B) DISCRETIONARY FUNDS.—The Secretary shall allocate all of the amounts reserved under section 437(b)(2) for grants for the purposes described in paragraphs (1) and (2) of subsection (a).

(d) FEDERAL SHARE.—Each highest State court which receives funds paid under this section may use such funds to pay not more than 75 percent of the cost of activities under this section in each of fiscal years **2012 through 2016** *2017 through 2021*.

**[(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—**Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

**[(1) \$10,000,000 for grants referred to in subsection (b)(2)(B); and**

**[(2) \$10,000,000 for grants referred to in subsection (b)(2)(C). For fiscal year 2011, out of the amount reserved pursuant to section 436(b)(2) for such fiscal year, there are available \$10,000,000 for grants referred to in subsection (b)(2)(B), and \$10,000,000 for grants referred to in subsection (b)(2)(C).]**

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### Subpart 3—Common Provisions

#### **[SEC. 440. DATA STANDARDIZATION FOR IMPROVED DATA MATCHING.**

**[(a) STANDARD DATA ELEMENTS.—**

**[(1) DESIGNATION.—**The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State perspectives, shall, by rule, designate standard data elements for any category of information required to be reported under this part.

**[(2) DATA ELEMENTS MUST BE NONPROPRIETARY AND INTEROPERABLE.—**The standard data elements designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

**[(3) OTHER REQUIREMENTS.—**In designating standard data elements under this subsection, the Secretary shall, to the extent practicable, incorporate—

**[(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;**

**[(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and**

**[(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulatory Council.**

**[(b) DATA STANDARDS FOR REPORTING.—**

【(1) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, shall, by rule, designate data reporting standards to govern the reporting required under this part.

【(2) REQUIREMENTS.—The data reporting standards required by paragraph (1) shall, to the extent practicable—

【(A) incorporate a widely-accepted, non-proprietary, searchable, computer-readable format;

【(B) be consistent with and implement applicable accounting principles; and

【(C) be capable of being continually upgraded as necessary.

【(3) INCORPORATION OF NONPROPRIETARY STANDARDS.—In designating reporting standards under this subsection, the Secretary shall, to the extent practicable, incorporate existing non-proprietary standards, such as the eXtensible Business Reporting Language.】

**SEC. 440. DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.**

*(a) DESIGNATION.—The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget and considering State government perspectives, by rule, designate data exchange standards to govern, under this part—*

*(1) necessary categories of information that State agencies operating programs under State plans approved under this part are required under applicable Federal law to electronically exchange with another State agency; and*

*(2) Federal reporting and data exchange required under applicable Federal law.*

*(b) REQUIREMENTS.—The data exchange standards required by paragraph (1) shall, to the extent practicable—*

*(1) incorporate a widely accepted, non-proprietary, searchable, computer-readable format, such as the eXtensible Markup Language;*

*(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;*

*(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;*

*(4) be consistent with and implement applicable accounting principles;*

*(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and*

*(6) be capable of being continually upgraded as necessary.*

*(c) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a change to existing data exchange standards found to be effective and efficient.*

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【PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE】

***PART E—FEDERAL PAYMENTS FOR FOSTER CARE, PREVENTION, AND PERMANENCY***

PURPOSE: APPROPRIATION

SEC. 470. For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would have been eligible for assistance under the State's plan approved under part A (as such plan was in effect on June 1, [1995) and] 1995), adoption assistance for children with special needs, *kinship guardianship assistance, and prevention services or programs specified in section 471(e)(1)*, there are authorized to be appropriated for each fiscal year [(commencing with the fiscal year which begins October 1, 1980)] such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

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) provides for foster care maintenance payments in accordance with section 472 [and for adoption assistance in accordance with section 473;], *adoption assistance in accordance with section 473, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;*

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under subtitle 1 of title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) subject to subsection (c), provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(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;

(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 enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with State and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, policies and procedures (including rel-



evant training for caseworkers) for identifying, documenting in agency records, and determining appropriate services with respect to—

(I) any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk of being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under section 475(8) of this Act, and youth who are not in foster care but are receiving services under section 477 of this Act); and

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

(ii) 2 years after such date of enactment, demonstrate to the Secretary that the State agency is implementing the policies and procedures referred to in clause (i).

(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 each contract entered into by a child care institution to provide foster care, 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;

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) provides that—

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

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

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an interstate placement), and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that—

(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) the parent has—

(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

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

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

(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)—

(i) a permanency hearing (as described in section 475(5)(C)), which considers in-State and out-of-State permanent placement options for the child, shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-State and out-of-State placements may be made concurrently with reasonable efforts of the type described in subparagraph (B);

(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 sections 475(5) and 475A with respect to each such child;

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A and plan approved under part D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part;

(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved;

(19) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards;

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—

(i) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

(B) provides that the State shall—

(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments

are to be made on behalf of the child under the State plan under this part;

(ii) comply with any request described in clause (i) that is received from another State; and

(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases; and

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in subparagraph (B) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part;

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

(A) such coverage may be provided through 1 or more State medical assistance programs;

(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program;

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are pro-

vided quality services that protect the safety and health of the children;

(23) provides that the State shall not—

(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness;

(24) 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, 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;

(25) **[provide]** *provides* that the State shall have in effect procedures for the orderly and timely interstate placement of children, *which, not later than October 1, 2026, shall include the use of an electronic interstate case-processing system*; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph;

(26) provides that—

(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract—

(I) conduct and complete the study; and

(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

(ii) in the case of a home study begun on or before September 30, 2008, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check,

or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A);

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 472 on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 473(d);

(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the ad-

ditional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 473(d) to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is—

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;

(31) provides that reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(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;



(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 or youth described in paragraph (9)(C)(i)(I), the State agency shall—

(A) not later than 2 years after the date of the enactment of this paragraph, report immediately, and in no case later than 24 hours after receiving information on children or youth who have been identified as being a sex trafficking victim, to the law enforcement authorities; and

(B) not later than 3 years after such date of enactment and annually thereafter, report to the Secretary the total number of children and youth who are sex trafficking victims; **[and]**

(35) provides that—

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

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

(ii) 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;

(iii) determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in section 475(9)(A)); and

(iv) reporting such related information as required by the Secretary; and

(B) not later than 2 years after such date of enactment, for each child and youth described in paragraph (9)(C)(i)(I) of this subsection, the State agency shall report immediately, and in no case later than 24 hours after receiving, information on missing or abducted children or youth 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**[.]**;

(36) provides that, not later than April 1, 2018, the State shall submit to the Secretary information addressing—

(A) whether the State licensing standards are in accord with model standards identified by the Secretary, and if not, the reason for the specific deviation and a description as to why having a standard that is reasonably in accord with the corresponding national model standards is not appropriate for the State;

(B) whether the State has elected to waive standards established in 471(a)(10)(A) for relative foster family homes (pursuant to waiver authority provided by 471(a)(10)(D)), a

*description of which standards the State most commonly waives, and if the State has not elected to waive the standards, the reason for not waiving these standards;*

*(C) if the State has elected to waive standards specified in subparagraph (B), how caseworkers are trained to use the waiver authority and whether the State has developed a process or provided tools to assist caseworkers in waiving nonsafety standards per the authority provided in 471(a)(10)(D) to quickly place children with relatives; and*

*(D) a description of the steps the State is taking to improve caseworker training or the process, if any; and*

*(37) includes a certification that, in response to the limitation imposed under section 472(k) with respect to foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State's juvenile justice system.*

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

(c) **USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.**—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.

(d) **ANNUAL REPORTS BY THE SECRETARY ON NUMBER OF CHILDREN AND YOUTH REPORTED BY STATES TO BE SEX TRAFFICKING VICTIMS.**—Not later than 4 years after the date of the enactment of this subsection and annually thereafter, the Secretary shall report to the Congress and make available to the public on the Internet website of the Department of Health and Human Services the number of children and youth reported in accordance with subsection (a)(34)(B) of this section to be sex trafficking victims (as defined in section 475(9)(A)).

(e) **PREVENTION AND FAMILY SERVICES AND PROGRAMS.**—

*(1) IN GENERAL.*—*Subject to the succeeding provisions of this subsection, the Secretary may make a payment to a State for providing the following services or programs for a child described in paragraph (2) and the parents or kin caregivers of the child when the need of the child, such a parent, or such a caregiver for the services or programs are directly related to the safety, permanence, or well-being of the child or to preventing the child from entering foster care:*

*(A) MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES.*—*Mental health and substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child.*

*(B) IN-HOME PARENT SKILL-BASED PROGRAMS.*—*In-home parent skill-based programs for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child and that include parenting skills*

training, parent education, and individual and family counseling.

(2) *CHILD DESCRIBED.*—For purposes of paragraph (1), a child described in this paragraph is the following:

(A) A child who is a candidate for foster care (as defined in section 475(13)) but can remain safely at home or in a kinship placement with receipt of services or programs specified in paragraph (1).

(B) A child in foster care who is a pregnant or parenting foster youth.

(3) *DATE DESCRIBED.*—For purposes of paragraph (1), the dates described in this paragraph are the following:

(A) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a child who is a candidate for foster care (as defined in section 475(13)).

(B) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a pregnant or parenting foster youth in need of services or programs specified in paragraph (1).

(4) *REQUIREMENTS RELATED TO PROVIDING SERVICES AND PROGRAMS.*—Services and programs specified in paragraph (1) may be provided under this subsection only if specified in advance in the child's prevention plan described in subparagraph (A) and the requirements in subparagraphs (B) through (E) are met:

(A) *PREVENTION PLAN.*—The State maintains a written prevention plan for the child that meets the following requirements (as applicable):

(i) *CANDIDATES.*—In the case of a child who is a candidate for foster care described in paragraph (2)(A), the prevention plan shall—

(I) identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;

(II) list the services or programs to be provided to or on behalf of the child to ensure the success of that prevention strategy; and

(III) comply with such other requirements as the Secretary shall establish.

(ii) *PREGNANT OR PARENTING FOSTER YOUTH.*—In the case of a child who is a pregnant or parenting foster youth described in paragraph (2)(B), the prevention plan shall—

(I) be included in the child's case plan required under section 475(1);

(II) list the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent;

(III) describe the foster care prevention strategy for any child born to the youth; and

(IV) *comply with such other requirements as the Secretary shall establish.*

(B) **TRAUMA-INFORMED.**—*The services or programs to be provided to or on behalf of a child are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma’s consequences and facilitate healing.*

(C) **ONLY SERVICES AND PROGRAMS PROVIDED IN ACCORDANCE WITH PROMISING, SUPPORTED, OR WELL-SUPPORTED PRACTICES PERMITTED.**—

(i) **IN GENERAL.**—*Only State expenditures for services or programs specified in subparagraph (A) or (B) of paragraph (1) that are provided in accordance with practices that meet the requirements specified in clause (ii) of this subparagraph and that meet the requirements specified in clause (iii), (iv), or (v), respectively, for being a promising, supported, or well-supported practice, shall be eligible for a Federal matching payment under section 474(a)(6)(A).*

(ii) **GENERAL PRACTICE REQUIREMENTS.**—*The general practice requirements specified in this clause are the following:*

(I) *The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.*

(II) *There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.*

(III) *If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.*

(IV) *Outcome measures are reliable and valid, and are administrated consistently and accurately across all those receiving the practice.*

(V) *There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent.*

(iii) **PROMISING PRACTICE.**—*A practice shall be considered to be a “promising practice” if the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 1 study that—*

(I) *was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and*

(II) utilized some form of control (such as an untreated group, a placebo group, or a wait list study).

(iv) *SUPPORTED PRACTICE*.—A practice shall be considered to be a “supported practice” if—

(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 1 study that—

(aa) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

(bb) was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design); and

(cc) was carried out in a usual care or practice setting; and

(II) the study described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of the treatment.

(v) *WELL-SUPPORTED PRACTICE*.—A practice shall be considered to be a “well-supported practice” if—

(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least 2 studies that—

(aa) were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

(bb) were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design); and

(cc) were carried out in a usual care or practice setting; and

(II) at least 1 of the studies described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment.

(D) *GUIDANCE ON PRACTICES CRITERIA AND PRE-APPROVED SERVICES AND PROGRAMS*.—

(i) *IN GENERAL*.—Not later than October 1, 2018, the Secretary shall issue guidance to States regarding the practices criteria required for services or programs to satisfy the requirements of subparagraph (C). The

guidance shall include a pre-approved list of services and programs that satisfy the requirements.

(ii) *UPDATES.*—The Secretary shall issue updates to the guidance required by clause (i) as often as the Secretary determines necessary.

(E) *OUTCOME ASSESSMENT AND REPORTING.*—The State shall collect and report to the Secretary the following information with respect to each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided during a 12-month period beginning on the date the child is determined by the State to be a child described in paragraph (2):

(i) The specific services or programs provided and the total expenditures for each of the services or programs.

(ii) The duration of the services or programs provided.

(iii) In the case of a child described in paragraph (2)(A), the child's placement status at the beginning, and at the end, of the 1-year period, respectively, and whether the child entered foster care within 2 years after being determined a candidate for foster care.

(5) *STATE PLAN COMPONENT.*—

(A) *IN GENERAL.*—A State electing to provide services or programs specified in paragraph (1) shall submit as part of the State plan required by subsection (a) a prevention services and programs plan component that meets the requirements of subparagraph (B).

(B) *PREVENTION SERVICES AND PROGRAMS PLAN COMPONENT.*—In order to meet the requirements of this subparagraph, a prevention services and programs plan component, with respect to each 5-year period for which the plan component is in operation in the State, shall include the following:

(i) How providing services and programs specified in paragraph (1) is expected to improve specific outcomes for children and families.

(ii) How the State will monitor and oversee the safety of children who receive services and programs specified in paragraph (1), including through periodic risk assessments throughout the period in which the services and programs are provided on behalf of a child and re-examination of the prevention plan maintained for the child under paragraph (4) for the provision of the services or programs if the State determines the risk of the child entering foster care remains high despite the provision of the services or programs.

(iii) With respect to the services and programs specified in subparagraphs (A) and (B) of paragraph (1), information on the specific promising, supported, or well-supported practices the State plans to use to provide the services or programs, including a description of—

*(I) the services or programs and whether the practices used are promising, supported, or well-supported;*

*(II) how the State plans to implement the services or programs, including how implementation of the services or programs will be continuously monitored to ensure fidelity to the practice model and to determine outcomes achieved and how information learned from the monitoring will be used to refine and improve practices;*

*(III) how the State selected the services or programs;*

*(IV) the target population for the services or programs; and*

*(V) how each service or program provided will be evaluated through a well-designed and rigorous process, which may consist of an ongoing, cross-site evaluation approved by the Secretary.*

*(iv) A description of the consultation that the State agencies responsible for administering the State plans under this part and part B engage in with other State agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services, including community-based organizations, in order to foster a continuum of care for children described in paragraph (2) and their parents or kin caregivers.*

*(v) A description of how the State shall assess children and their parents or kin caregivers to determine eligibility for services or programs specified in paragraph (1).*

*(vi) A description of how the services or programs specified in paragraph (1) that are provided for or on behalf of a child and the parents or kin caregivers of the child will be coordinated with other child and family services provided to the child and the parents or kin caregivers of the child under the State plan under part B.*

*(vii) Descriptions of steps the State is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services, including—*

*(I) ensuring that staff is qualified to provide services or programs that are consistent with the promising, supported, or well-supported practice models selected; and*

*(II) developing appropriate prevention plans, and conducting the risk assessments required under clause (iii).*

*(viii) A description of how the State will provide training and support for caseworkers in assessing what children and their families need, connecting to the families served, knowing how to access and deliver the*

*needed trauma-informed and evidence-based services, and overseeing and evaluating the continuing appropriateness of the services.*

*(ix) A description of how caseload size and type for prevention caseworkers will be determined, managed, and overseen.*

*(x) An assurance that the State will report to the Secretary such information and data as the Secretary may require with respect to the provision of services and programs specified in paragraph (1), including information and data necessary to determine the performance measures for the State under paragraph (6) and compliance with paragraph (7).*

**(C) REIMBURSEMENT FOR SERVICES UNDER THE PREVENTION PLAN COMPONENT.—**

*(i) LIMITATION.—Except as provided in subclause (ii), a State may not receive a Federal payment under this part for a given promising, supported, or well-supported practice unless (in accordance with subparagraph (B)(iii)(V)) the plan includes a well-designed and rigorous evaluation strategy for that practice.*

*(ii) WAIVER OF LIMITATION.—The Secretary may waive the requirement for a well-designed and rigorous evaluation of any well-supported practice if the Secretary deems the evidence of the effectiveness of the practice to be compelling and the State meets the continuous quality improvement requirements included in subparagraph (B)(iii)(II) with regard to the practice.*

**(6) PREVENTION SERVICES MEASURES.—**

*(A) ESTABLISHMENT; ANNUAL UPDATES.—Beginning with fiscal year 2021, and annually thereafter, the Secretary shall establish the following prevention services measures based on information and data reported by States that elect to provide services and programs specified in paragraph (1):*

*(i) PERCENTAGE OF CANDIDATES FOR FOSTER CARE WHO DO NOT ENTER FOSTER CARE.—The percentage of candidates for foster care for whom, or on whose behalf, the services or programs are provided who do not enter foster care, including those placed with a kin caregiver outside of foster care, during the 12-month period in which the services or programs are provided and through the end of the succeeding 12-month-period.*

*(ii) PER-CHILD SPENDING.—The total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skill-based programs, respectively, for, or on behalf of, each child described in paragraph (2).*

*(B) DATA.—The Secretary shall establish and annually update the prevention services measures—*

*(i) based on the median State values of the information reported under each clause of subparagraph (A) for the 3 then most recent years; and*



(ii) taking into account State differences in the price levels of consumption goods and services using the most recent regional price parities published by the Bureau of Economic Analysis of the Department of Commerce or such other data as the Secretary determines appropriate.

(C) PUBLICATION OF STATE PREVENTION SERVICES MEASURES.—The Secretary shall annually make available to the public the prevention services measures of each State.

(7) MAINTENANCE OF EFFORT FOR STATE FOSTER CARE PREVENTION EXPENDITURES.—

(A) IN GENERAL.—If a State elects to provide services and programs specified in paragraph (1) for a fiscal year, the State foster care prevention expenditures for the fiscal year shall not be less than the amount of the expenditures for fiscal year 2014.

(B) STATE FOSTER CARE PREVENTION EXPENDITURES.—The term “State foster care prevention expenditures” means the following:

(i) TANF; IV-B; SSBG.—State expenditures for foster care prevention services and activities under the State program funded under part A (including from amounts made available by the Federal Government), under the State plan developed under part B (including any such amounts), or under the Social Services Block Grant Programs under subtitle A of title XX (including any such amounts).

(ii) OTHER STATE PROGRAMS.—State expenditures for foster care prevention services and activities under any State program that is not described in clause (i) (other than any State expenditures for foster care prevention services and activities under the State program under this part (including under a waiver of the program)).

(C) STATE EXPENDITURES.—The term “State expenditures” means all State or local funds that are expended by the State or a local agency including State or local funds that are matched or reimbursed by the Federal Government and State or local funds that are not matched or reimbursed by the Federal Government.

(D) DETERMINATION OF PREVENTION SERVICES AND ACTIVITIES.—The Secretary shall require each State that elects to provide services and programs specified in paragraph (1) to report the expenditures specified in subparagraph (B) for fiscal year 2014 and for such fiscal years thereafter as are necessary to determine whether the State is complying with the maintenance of effort requirement in subparagraph (A). The Secretary shall specify the specific services and activities under each program referred to in subparagraph (B) that are “prevention services and activities” for purposes of the reports.

(8) PROHIBITION AGAINST USE OF STATE FOSTER CARE PREVENTION EXPENDITURES AND FEDERAL IV-E PREVENTION FUNDS FOR MATCHING OR EXPENDITURE REQUIREMENT.—A State that elects to provide services and programs specified in paragraph (1) shall not use any State foster care prevention expenditures

for a fiscal year for the State share of expenditures under section 474(a)(6) for a fiscal year.

(9) ADMINISTRATIVE COSTS.—Expenditures described in section 474(a)(6)(B)—

(A) shall not be eligible for payment under subparagraph (A), (B), or (E) of section 474(a)(3); and

(B) shall be eligible for payment under section 474(a)(6)(B) without regard to whether the expenditures are incurred on behalf of a child who is, or is potentially, eligible for foster care maintenance payments under this part.

(10) APPLICATION.—The provision of services or programs under this subsection to or on behalf of a child described in paragraph (2) shall not be considered to be receipt of aid or assistance under the State plan under this part for purposes of eligibility for any other program established under this Act.

#### FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 472. (a) IN GENERAL.—

(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—

(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

(B) the child's placement and care are the responsibility of—

(i) the State agency administering the State plan approved under section 471;

(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; or

(iii) an Indian tribe or a tribal organization (as defined in section 479B(a)) or a tribal consortium that has a plan approved under section 471 in accordance with section 479B; and

(C) the child has been placed in a foster family home [or], with a parent residing in a licensed residential fam-

*ily-based treatment facility, but only to the extent permitted under subsection (j), or in a child-care institution, but only to the extent permitted under subsection (k).*

(3) AFDC ELIGIBILITY REQUIREMENT.—

(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which

are included in the term “foster care maintenance payments” (as defined in section 475(4)).

[(c) For the purposes of this part, (1) the term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.]

(c) DEFINITIONS.—*For purposes of this part:*

(1) FOSTER FAMILY HOME.—

(A) IN GENERAL.—*The term “foster family home” means the home of an individual or family—*

*(i) that is licensed or approved by the State in which it is situated as a foster family home that meets the standards established for the licensing or approval; and*

*(ii) in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State to be a foster parent—*

*(I) that the State deems capable of adhering to the reasonable and prudent parent standard;*

*(II) that provides 24-hour substitute care for children placed away from their parents or other caretakers; and*

*(III) that provides the care for not more than 6 children in foster care.*

(B) STATE FLEXIBILITY.—*The number of foster children that may be cared for in a home under subparagraph (A) may exceed the numerical limitation in subparagraph (A)(ii)(III), at the option of the State, for any of the following reasons:*

*(i) To allow a parenting youth in foster care to remain with the child of the parenting youth.*

*(ii) To allow siblings to remain together.*

*(iii) To allow a child with an established meaningful relationship with the family to remain with the family.*

*(iv) To allow a family with special training or skills to provide care to a child who has a severe disability.*

(C) RULE OF CONSTRUCTION.—*Subparagraph (A) shall not be construed as prohibiting a foster parent from renting the home in which the parent cares for a foster child placed in the parent’s care.*

(2) *CHILD-CARE INSTITUTION.*—

(A) *IN GENERAL.*—The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved by the agency of the State responsible for licensing or approval of institutions of this type as meeting the standards established for the licensing.

(B) *SUPERVISED SETTINGS.*—In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations.

(C) *EXCLUSIONS.*—The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(b)(8).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return

of the child to such home would be contrary to the child's best interests.

(h)(1) For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of subtitle 1 of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

(j) CHILDREN PLACED WITH A PARENT RESIDING IN A LICENSED RESIDENTIAL FAMILY-BASED TREATMENT FACILITY FOR SUBSTANCE ABUSE.—

(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, a child who is eligible for foster care mainte-

nance payments under this section, or who would be eligible for the payments if the eligibility were determined without regard to paragraphs (1)(B) and (3) of subsection (a), shall be eligible for the payments for a period of not more than 12 months during which the child is placed with a parent who is in a licensed residential family-based treatment facility for substance abuse, but only if—

(A) the recommendation for the placement is specified in the child's case plan before the placement;

(B) the treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; and

(C) the substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

(2) APPLICATION.—With respect to children for whom foster care maintenance payments are made under paragraph (1), only the children who satisfy the requirements of paragraphs (1)(B) and (3) of subsection (a) shall be considered to be children with respect to whom foster care maintenance payments are made under this section for purposes of subsection (h) or section 473(b)(3)(B).

(k) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

(1) IN GENERAL.—Beginning with the third week for which foster care maintenance payments are made under this section on behalf of a child placed in a child-care institution, no Federal payment shall be made to the State under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of the child unless—

(A) the child is placed in a child-care institution that is a setting specified in paragraph (2) (or is placed in a licensed residential family-based treatment facility consistent with subsection (j)); and

(B) in the case of a child placed in a qualified residential treatment program (as defined in paragraph (4)), the requirements specified in paragraph (3) and section 475A(c) are met.

(2) SPECIFIED SETTINGS FOR PLACEMENT.—The settings for placement specified in this paragraph are the following:

(A) A qualified residential treatment program (as defined in paragraph (4)).

(B) A setting specializing in providing prenatal, postpartum, or parenting supports for youth.

(C) In the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently.

(3) ASSESSMENT TO DETERMINE APPROPRIATENESS OF PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—

(A) DEADLINE FOR ASSESSMENT.—In the case of a child who is placed in a qualified residential treatment program,

*if the assessment required under section 475A(c)(1) is not completed within 30 days after the placement is made, no Federal payment shall be made to the State under section 474(a)(1) for any amounts expended for foster care maintenance payments on behalf of the child during the placement.*

*(B) DEADLINE FOR TRANSITION OUT OF PLACEMENT.—If the assessment required under section 475A(c)(1) determines that the placement of a child in a qualified residential treatment program is not appropriate, a court disapproves such a placement under section 475A(c)(2), or a child who has been in an approved placement in a qualified residential treatment program is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home, Federal payments shall be made to the State under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of the child while the child remains in the qualified residential treatment program only during the period necessary for the child to transition home or to such a placement. In no event shall a State receive Federal payments under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of a child who remains placed in a qualified residential treatment program after the end of the 30-day period that begins on the date a determination is made that the placement is no longer the recommended or approved placement for the child.*

*(4) QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—For purposes of this part, the term “qualified residential treatment program” means a program that—*

*(A) has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under section 475A(c);*

*(B) has registered or licensed nursing staff and other licensed clinical staff who—*

*(i) provide care within the scope of their practice as defined by State law;*

*(ii) are on-site during business hours; and*

*(iii) are available 24 hours a day and 7 days a week;*

*(C) to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;*

*(D) facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;*

*(E) documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;*

*(F) provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and*



(G) is licensed in accordance with section 471(a)(10) and is accredited by any of the following independent, not-for-profit organizations:

(i) *The Commission on Accreditation of Rehabilitation Facilities (CARF).*

(ii) *The Joint Commission on Accreditation of Healthcare Organizations (JCAHO).*

(iii) *The Council on Accreditation (COA).*

(iv) *Any other independent, not-for-profit accrediting organization approved by the Secretary.*

ADOPTION AND GUARDIANSHIP ASSISTANCE PROGRAM

SEC. 473. (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

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

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I)(aa)(AA) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(BB) met the requirements of section 472(a)(3) with respect to the home referred to in subitem (AA) of this item;

(bb) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

(II) has been determined by the State, pursuant to subsection (c)(1) of this section, to be a child with special needs; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child—

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs.

(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I) meets the requirements of subparagraph (A)(i)(II);

(II) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(III) is available for adoption because—

(aa) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(bb) the child's adoptive parents have died; and

(IV) fails to meet the requirements of subparagraph (A)(i) but would meet such requirements if—

(aa) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(bb) the prior adoption were treated as never having occurred; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in

effect at the time that such determination would have been made), and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died.

(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 471(a)(28), the placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child shall be considered never to have been made.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

(i) who has attained—

(I) 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii); or

(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

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

(i) would be considered a child with special needs under subsection (c)(2);

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

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

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

(8)(A) A State shall calculate the savings (if any) resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, using a methodology specified by the Secretary or an alternate methodology proposed by the State and approved by the Secretary.

(B) A State shall annually report to the Secretary—

(i) the methodology used to make the calculation described in subparagraph (A), without regard to whether any savings are found;

(ii) the amount of any savings referred to in subparagraph (A); and

(iii) how any such savings are spent, accounting for and reporting the spending separately from any other spending reported to the Secretary under part B or this part.

(C) The Secretary shall make all information reported pursuant to subparagraph (B) available on the website of the Department of Health and Human Services in a location easily accessible to the public.

(D)(i) A State shall spend an amount equal to the amount of the savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, to provide to children of families any service that may be provided under part B or this part. A State shall spend not less than 30 percent of any such savings on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least  $\frac{2}{3}$  of the spending by the State to comply with such 30 percent requirement being spent on post-adoption and post-guardianship services.

(ii) Any State spending required under clause (i) shall be used to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or this part.

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

(2) For purposes of subtitle 1 of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child—

(A)(i) who is a child described in subsection (a)(2), and

(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),

(B) with respect to whom foster care maintenance payments are being made under section 472, or

(C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

(c) For purposes of this section—

(1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined that the child cannot or should not be returned to the home of his parents; and

(B) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX; or

(2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;

(B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under title XIX; or

(ii) the child meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; and

(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.—

(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—In order to receive payments under section 474(a)(5), a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) MINIMUM REQUIREMENTS.—The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000.

(C) INTERSTATE APPLICABILITY.—The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) NO EFFECT ON FEDERAL REIMBURSEMENT.—Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) LIMITATIONS ON AMOUNT OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—

(A) IN GENERAL.—A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.

(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) TREATMENT OF SIBLINGS.—With respect to a child described in subparagraph (A) whose sibling or siblings are not so described—

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(C) ELIGIBILITY NOT AFFECTED BY REPLACEMENT OF GUARDIAN WITH A SUCCESSOR GUARDIAN.—In the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection shall not be affected by reason of the replacement of the relative guardian with a successor legal guardian named in the kinship guardianship assistance agreement referred to in paragraph (1) (including in any amending to the agreement), notwithstanding subparagraph (A) of this paragraph and section 471(a)(28).

(e) APPLICABLE CHILD DEFINED.—

(1) ON THE BASIS OF AGE.—

(A) IN GENERAL.—Subject to paragraphs (2) and (3), in this section, the term “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any [fiscal year] *period* described in subparagraph (B) if the child attained the applicable age for that [fiscal year] *period* before the end of that [fiscal year] *period*.

(B) APPLICABLE AGE.—For purposes of subparagraph (A), the applicable age for a [fiscal year] *period* is as follows:

In the case of [fiscal year]:	The applicable age is:
[2010] <i>Fiscal year 2010</i> .....	16
[2011] <i>Fiscal year 2011</i> .....	14
[2012] <i>Fiscal year 2012</i> .....	12
[2013] <i>Fiscal year 2013</i> .....	10
[2014] <i>Fiscal year 2014</i> .....	8
[2015] <i>Fiscal year 2015</i> .....	6
[2016] <i>October 1, 2015, through March 31, 2019</i> .....	4
[2017] <i>April 1, 2019, through March 31, 2020</i> .....	2
[2018] <i>April 1, 2020, or thereafter</i> .....	any age.

(2) EXCEPTION FOR DURATION IN CARE.—Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) EXCEPTION FOR MEMBER OF A SIBLING GROUP.—Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child—

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).

**SEC. 473A. ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENTS.**

(a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption and legal guardianship incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

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



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

(2) the State is in compliance with subsection (c) for the fiscal year;

(3) the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and

(4) the fiscal year is any of fiscal years **2013 through 2015** *2016 through 2020*.

(c) DATA REQUIREMENTS.—

(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and

(B) for each succeeding fiscal year that precedes the fiscal year.

(2) DETERMINATION OF RATES OF ADOPTIONS AND GUARDIANSHIPS BASED ON AFCARS DATA.—The Secretary shall determine each of the rates required to be determined under this section with respect to a State and a fiscal year, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year, and, with respect to the determination of the rates related to foster child guardianships, on the basis of information reported to the Secretary under paragraph (12) of subsection (g).

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

(d) ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the adoption and legal guardianship incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

(A) \$5,000, multiplied by the amount (if any) by which—

(i) the number of foster child adoptions in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child adoptions for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year;

(B) \$7,500, multiplied by the amount (if any) by which—

(i) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 9 years of age but not 14 years of age; and

(C) \$10,000, multiplied by the amount (if any) by which—

(i) the number of older child adoptions and older foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of older child adoptions and older foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 14 years of age; and

(D) \$4,000, multiplied by the amount (if any) by which—

(i) the number of foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—For any fiscal year, if the total amount of adoption incentive payments otherwise payable under paragraph (1) for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under paragraph (1) for the fiscal year shall be—

(A) the amount of the adoption and legal guardianship incentive payment that would otherwise be payable to the State under paragraph (1) for the fiscal year; multiplied by

(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption and legal guardianship incentive payments otherwise payable under paragraph (1) for the fiscal year.

(3) INCREASED ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT FOR TIMELY ADOPTIONS.—

(A) IN GENERAL.—If for any of fiscal years 2013 through 2015, the total amount of adoption and legal guardianship incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year, then, from the remainder of the amount appropriated for the fiscal year that is not

required for such payments (in this paragraph referred to as the “timely adoption award pool”), the Secretary shall increase the adoption incentive payment determined under paragraph (1) for each State that the Secretary determines is a timely adoption award State for the fiscal year by the award amount determined for the fiscal year under subparagraph (C).

(B) **TIMELY ADOPTION AWARD STATE DEFINED.**—A State is a timely adoption award State for a fiscal year if the Secretary determines that, for children who were in foster care under the supervision of the State at the time of adoptive placement, the average number of months from removal of children from their home to the placement of children in finalized adoptions is less than 24 months.

(C) **AWARD AMOUNT.**—For purposes of subparagraph (A), the award amount determined under this subparagraph with respect to a fiscal year is the amount equal to the timely adoption award pool for the fiscal year divided by the number of timely adoption award States for the fiscal year.

(e) **36-MONTH AVAILABILITY OF INCENTIVE PAYMENTS.**—Payments to a State under this section in a fiscal year shall remain available for use by the State for the 36-month period beginning with the month in which the payments are made.

(f) **LIMITATIONS ON USE OF INCENTIVE PAYMENTS.**—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E, and shall use the amount to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 424, 434, and 474.

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

(1) **FOSTER CHILD ADOPTION RATE.**—The term “foster child adoption rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child adoptions finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) **BASE RATE OF FOSTER CHILD ADOPTIONS.**—The term “base rate of foster child adoptions” means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child adoption rate for the State for the then immediately preceding fiscal year; or

(B) the foster child adoption rate for the State for the average of the then immediately preceding 3 fiscal years.

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

(4) PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP RATE.—The term “pre-adolescent child adoption and pre-adolescent foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 9 years of age but not 14 years of age.

(5) BASE RATE OF PRE-ADOLESCENT CHILD ADOPTIONS AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIPS.—The term “base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(6) PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP.—The term “pre-adolescent child adoption and pre-adolescent foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 9 years of age but not 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(7) OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP RATE.—The term “older child adoption and older foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of older child adoptions and older foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 14 years of age.

(8) BASE RATE OF OLDER CHILD ADOPTIONS AND OLDER FOSTER CHILD GUARDIANSHIPS.—The term “base rate of older child adoptions and older foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the older child adoption and older foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the older child adoption and older foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(9) OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP.—The term “older child adoption and older foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(10) FOSTER CHILD GUARDIANSHIP RATE.—The term “foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child guardianships occurring in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(11) BASE RATE OF FOSTER CHILD GUARDIANSHIPS.—The term “base rate of foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(12) FOSTER CHILD GUARDIANSHIP.—The term “foster child guardianship” means, with respect to a State, the exit of a child from foster care under the responsibility of the State to live with a legal guardian, if the State has reported to the Secretary—

(A) that the State agency has determined that—

(i) the child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;

(ii) being returned home or adopted are not appropriate permanency options for the child;

(iii) the child demonstrates a strong attachment to the prospective legal guardian, and the prospective legal guardian has a strong commitment to caring permanently for the child; and

(iv) if the child has attained 14 years of age, the child has been consulted regarding the legal guardianship arrangement; or

(B) the alternative procedures used by the State to determine that legal guardianship is the appropriate option for the child.

(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For grants under subsection (a), there are authorized to be appropriated to the Secretary—

(A) \$20,000,000 for fiscal year 1999;

(B) \$43,000,000 for fiscal year 2000;

- (C) \$20,000,000 for each of fiscal years 2001 through 2003; and
- (D) \$43,000,000 for each of fiscal years 2004 through ~~2016~~ 2021.
- (2) AVAILABILITY.—Amounts appropriated under paragraph (1), or under any other law for grants under subsection (a), are authorized to remain available until expended, but not after fiscal year ~~2016~~ 2021.
- (i) TECHNICAL ASSISTANCE.—
- (1) IN GENERAL.—The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.
- (2) DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.—The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:
- (A) The development of best practice guidelines for expediting termination of parental rights.
- (B) Models to encourage the use of concurrent planning.
- (C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.
- (D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.
- (E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.
- (F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.
- (3) TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS.—Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.
- (4) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 2004 through 2006.

PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

- (1) *subject to subsections (j) and (k) of section 472*, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care in-

stitutions (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(2) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(3) subject to section 472(i) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents or relative guardians, the members of the staff of State-licensed or State-approved child care institutions providing care, or State-licensed or State-approved child welfare agencies providing services, to children receiving assistance under this part, and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts, in ways that increase the ability of such current or prospective parents, guardians, staff members, institutions, attorneys, and advocates to provide support and assistance to foster and adopted children and

children living with relative guardians, whether incurred directly by the State or by contract,

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus

(4) an amount equal to the amount (if any) by which—

(A) the lesser of—

(i) 80 percent of the amounts expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); or

(ii) the amount allotted to the State under section 477(c)(1) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year; exceeds

(B) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; plus

(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 473(d) pursuant to kinship guardianship assistance agreements[.]; plus

(6) subject to section 471(e)—

(A) for each quarter—

(i) subject to clause (ii)—

(I) beginning after September 30, 2019, and before October 1, 2025, an amount equal to 50 per-



cent of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C); and

(II) beginning after September 30, 2025, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C) (or, with respect to the payments made during the quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if the Indian tribe, tribal organization, or tribal consortium made the payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); except that

(ii) not less than 50 percent of the total amount payable to a State under clause (i) for a fiscal year shall be for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with well-supported practices; plus

(B) for each quarter specified in subparagraph (A), an amount equal to the sum of the following proportions of the total amount expended during the quarter:

(i) 50 percent of so much of the expenditures as are found necessary by the Secretary for the proper and efficient administration of the State plan for the provision of services or programs specified in section 471(e)(1), including expenditures for activities approved by the Secretary that promote the development of necessary processes and procedures to establish and implement the provision of the services and programs for individuals who are eligible for the services and programs and expenditures attributable to data collection and reporting; and

(ii) 50 percent of so much of the expenditures with respect to the provision of services and programs specified in section 471(e)(1) as are for training of personnel

*employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision and of the members of the staff of State-licensed or State-approved child welfare agencies providing services to children described in section 471(e)(2) and their parents or kin caregivers, including on how to determine who are individuals eligible for the services or programs, how to identify and provide appropriate services and programs, and how to oversee and evaluate the ongoing appropriateness of the services and programs; plus*

*(7) an amount equal to 50 percent of the amounts expended by the State during the quarter as the Secretary determines are for kinship navigator programs that meet the requirements described in section 427(a)(1) and that the Secretary determines are operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C), without regard to whether the expenditures are incurred on behalf of children who are, or are potentially, eligible for foster care maintenance payments under this part.*

(b)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with subsection (a), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

- (i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or
- (ii) in any other case, allow the claim, subject to disallowance (as necessary)—

- (I) upon completion of the review, if it is determined that the claim is not allowable; or

- (II) on the basis of findings of an audit or financial management review.

(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated paragraph (18) or (23) of section 471(a) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

- (A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

- (B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

- (C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

(2) Any other entity which is in a State that receives funds under this part and which violates paragraph (18) or (23) of section 471(a) during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(e) DISCRETIONARY GRANTS FOR EDUCATIONAL AND TRAINING VOUCHERS FOR YOUTHS AGING OUT OF FOSTER CARE.—From amounts appropriated pursuant to section 477(h)(2), the Secretary may make a grant to a State with a plan approved under this part, for a calendar quarter, in an amount equal to the lesser of—

(1) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in section 477(a)(6); or

(2) the amount, if any, allotted to the State under section 477(c)(3) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this subsection for such purposes for all prior quarters in the fiscal year.

(f)(1) If the Secretary finds that a State has failed to submit to the Secretary data, as required by regulation, for the data collection system implemented under section 479, the Secretary shall, within 30 days after the date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

(A)  $\frac{1}{6}$  of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

(B)  $\frac{1}{4}$  of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.

(g) For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1130, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.

#### 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) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out

the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

(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.

(C) The health and education records of the child, including the most recent information available regarding—

- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;
- (iv) a record of the child's immunizations;
- (v) the child's known medical problems;
- (vi) the child's medications; and
- (vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) 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 a successful adulthood.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 8101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary

or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

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

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent

of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, 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 and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);

(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 14, the services needed to assist the child to make the transition from foster care to 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; (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 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;

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

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

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child;

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

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home;

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect; and

(I) each child in foster care under the responsibility of the State who has attained 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, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report, and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and a driver's license or identification card issued by a State in

accordance with the requirements of section 202 of the REAL ID Act of 2005, *and any official documentation necessary to prove that the child was previously in foster care.*

(6) The term “administrative review” means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term “legal guardianship” means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term “legal guardian” means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term “child” means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 473 if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

(iv) who is—

(I) completing secondary education or a program leading to an equivalent credential;

(II) enrolled in an institution which provides post-secondary or vocational education;

(III) participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(9) The term “sex trafficking victim” means a victim of—

(A) sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000); or

(B) a severe form of trafficking in persons described in section 103(9)(A) of such Act.

(10)(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.

(11)(A) The term “age or developmentally-appropriate” means—

(i) 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

(ii) 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.

(B) In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this part or part B shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school.

(12) The term “sibling” means an individual who satisfies at least one of the following conditions with respect to a child:

(A) The individual is considered by State law to be a sibling of the child.

(B) The individual would have been considered a sibling of the child under State law but for a termination or other disruption of parental rights, such as the death of a parent.

(13) *The term “child who is a candidate for foster care” means, a child who is identified in a prevention plan under section 471(e)(4)(A) as being at imminent risk of entering foster care (without regard to whether the child would be eligible for foster care maintenance payments under section 472 or is or would be eligible for adoption assistance or kinship guardianship assistance payments under section 473) but who can remain safely in the child’s home or in a kinship placement as long as services or programs specified in section 471(e)(1) that are necessary to prevent the entry of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.*

**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 determined for the child under section 475(5)(C), 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 the children.

(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 that—

(A) the child's foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(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—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 475(5)(I) in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) 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.

(c) ASSESSMENT, DOCUMENTATION, AND JUDICIAL DETERMINATION REQUIREMENTS FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—In the case of any child who is placed in

a qualified residential treatment program (as defined in section 472(k)(4)), 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)(A) Within 30 days of the start of each placement in such a setting, a qualified individual (as defined in subparagraph (D)) shall—

(i) assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;

(ii) determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting from among the settings specified in section 472(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(iii) develop a list of child-specific short- and long-term mental and behavioral health goals.

(B)(i) The State shall assemble a family and permanency team for the child in accordance with the requirements of clauses (ii) and (iii). The qualified individual conducting the assessment required under subparagraph (A) shall work in conjunction with the family of, and permanency team for, the child while conducting and making the assessment.

(ii) The family and permanency team shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the family and permanency team shall include the members of the permanency planning team for the child that are selected by the child in accordance with section 475(5)(C)(iv).

(iii) The State shall document in the child's case plan—

(I) the reasonable and good faith effort of the State to identify and include all such individuals on the family of, and permanency team for, the child;

(II) all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;

(III) evidence that meetings of the family and permanency team, including meetings relating to the assessment required under subparagraph (A), are held at a time and place convenient for family;

(IV) if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;

(V) evidence that the assessment required under subparagraph (A) is determined in conjunction with the family and permanency team; and

(VI) the placement preferences of the family and permanency team relative to the assessment and, if the placement

*preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment under subparagraph (A), the reasons why the preferences of the team and of the child were not recommended.*

*(C) In the case of a child who the qualified individual conducting the assessment under subparagraph (A) determines should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that a needs of the child cannot be met in a foster family home. The qualified individual also shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.*

*(D)(i) Subject to clause (ii), in this subsection, the term “qualified individual” means a trained professional or licensed clinician who is not an employee of the State agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State.*

*(ii) The Secretary may approve a request of a State to waive any requirement in clause (i) upon a submission by the State, in accordance with criteria established by the Secretary, that certifies that the trained professionals or licensed clinicians with responsibility for performing the assessments described in subparagraph (A) shall maintain objectivity with respect to determining the most effective and appropriate placement for a child.*

*(2) Within 60 days of the start of each placement in a qualified residential treatment program, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, shall—*

*(A) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment under paragraph (1);*

*(B) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and*

*(C) approve or disapprove the placement.*

*(3) The written documentation made under paragraph (1)(C) and documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under paragraph (2)*

shall be included in and made part of the case plan for the child.

(4) As long as a child remains placed in a qualified residential treatment program, the State agency shall submit evidence at each status review and each permanency hearing held with respect to the child—

(A) demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

(B) documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(C) documenting the efforts made by the State agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(5) In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State agency shall submit to the Secretary—

(A) the most recent versions of the evidence and documentation specified in paragraph (4); and

(B) the signed approval of the head of the State agency for the continued placement of the child in that setting.

#### TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) TECHNICAL ASSISTANCE AND IMPLEMENTATION SERVICES FOR TRIBAL PROGRAMS.—

(1) AUTHORITY.—The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) ASSISTANCE PROVIDED.—

(A) IN GENERAL.—The technical assistance and implementation services shall be to—



(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 479B; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 422(b)(9), 471(a)(32), or 477(b)(3)(G); and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to the Secretary a plan under section 471 to implement a program under this part as authorized by section 479B, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 471 to carry out a program under section 479B, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 475(5), or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) GRANT CONDITION.—

(i) IN GENERAL.—As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 471 to carry out a program under section 479B by the end of the 24-month period described in that subparagraph.

(ii) EXCEPTION.—The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) IMPLEMENTATION AUTHORITY.—The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) APPROPRIATION.—There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

(d) *TECHNICAL ASSISTANCE AND BEST PRACTICES, CLEARINGHOUSE, DATA COLLECTION, AND EVALUATIONS RELATING TO PREVENTION SERVICES AND PROGRAMS.*—

(1) *TECHNICAL ASSISTANCE AND BEST PRACTICES.*—*The Secretary shall provide to States and, as applicable, to Indian tribes, tribal organizations, and tribal consortia, technical assistance regarding the provision of services and programs described in section 471(e)(1) and shall disseminate best practices with respect to the provision of the services and programs, including how to plan and implement a well-designed and rigorous evaluation of a promising, supported, or well-supported practice.*

(2) *CLEARINGHOUSE OF PROMISING, SUPPORTED, AND WELL-SUPPORTED PRACTICES.*—*The Secretary shall, directly or through grants, contracts, or interagency agreements, evaluate research on the practices specified in clauses (iii), (iv), and (v), respectively, of section 471(e)(4)(C), and programs that meet the requirements described in section 427(a)(1), including culturally specific, or location- or population-based adaptations of the practices, to identify and establish a public clearinghouse of the practices that satisfy each category described by such clauses. In addition, the clearinghouse shall include information on the specific outcomes associated with each practice, including whether the practice has been shown to prevent child abuse and neglect and reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.*

(3) *DATA COLLECTION AND EVALUATIONS.*—*The Secretary, directly or through grants, contracts, or interagency agreements, may collect data and conduct evaluations with respect to the provision of services and programs described in section 471(e)(1) for purposes of assessing the extent to which the provision of the services and programs—*

- (A) *reduces the likelihood of foster care placement;*
- (B) *increases use of kinship care arrangements; or*
- (C) *improves child well-being.*

(4) *REPORTS TO CONGRESS.*—

(A) *IN GENERAL.*—*The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives periodic reports based on the provision of services and programs described in section 471(e)(1) and the activities carried out under this subsection.*

(B) *PUBLIC AVAILABILITY.*—*The Secretary shall make the reports to Congress submitted under this paragraph publicly available.*

(5) APPROPRIATION.—*Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to the Secretary \$1,000,000 for fiscal year 2016 and each fiscal year thereafter to carry out this subsection.*

(e) *EVALUATION OF STATE PROCEDURES AND PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES OF MENTAL ILLNESS OR OTHER CONDITIONS.*—The Secretary shall conduct an evaluation of the procedures and protocols established by States in accordance with the requirements of section 422(b)(15)(A)(vii). The evaluation shall analyze the extent to which States comply with and enforce the procedures and protocols and the effectiveness of various State procedures and protocols and shall identify best practices. Not later than January 1, 2019, the Secretary shall submit a report on the results of the evaluation to Congress.

**SEC. 477. JOHN H. CHAFEE FOSTER CARE [INDEPENDENCE PROGRAM] PROGRAM FOR SUCCESSFUL TRANSITION TO ADULTHOOD.**

(a) **PURPOSE.**—The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

(1) to [identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services] *support all youth who have experienced foster care at age 14 or older in their transition to adulthood through transitional services* such as assistance in obtaining a high school diploma and post-secondary education, career exploration, vocational training, job placement and retention, [training in daily living skills, training in budgeting and financial management skills] *training and opportunities to practice daily living skills (such as financial literacy training and driving instruction)*, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children [who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment] *who have experienced foster care at age 14 or older achieve meaningful, permanent connections with a caring adult*;

(3) to help children [who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions] *who have experienced foster care at age 14 or older engage in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families experience*;

[(4) to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults;]

[(5)] (4) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age (or 23 years of age, in the case of a State with a certification under subsection (b)(3)(A)(ii) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with such subsection) to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;

[(6)] (5) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care;

[(7)] (6) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption; and

[(8)] (7) to ensure children who are likely to remain in foster care until 18 years of age have regular, ongoing opportunities to engage in age or developmentally-appropriate activities as defined in section 475(11).

(b) APPLICATIONS.—

(1) IN GENERAL.—A State may apply for funds from its allotment under subsection (c) for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) STATE PLAN.—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping [adolescents] youth in foster care achieve independence.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) CERTIFICATIONS.—The certifications required by this paragraph with respect to a plan are the following:

(A) (i) A certification by the chief executive officer of the State that the State will provide assistance and services to [children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.] youths who have aged out of foster care and have not attained 21 years of age.

(ii) *If the State has elected under section 475(8)(B) to extend eligibility for foster care to all children who have not attained 21 years of age, or if the Secretary determines that the State agency responsible for administering the State plans under this part and part B uses State funds or any other funds not provided under this part to provide services and assistance for youths who have aged out of foster care that are comparable to the services and assistance the youths would receive if the State had made such an election, the certification required under clause (i) may provide that the State will provide assistance and services to youths*

*who have aged out of foster care and have not attained 23 years of age.*

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for **【children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.】** *youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a State with a certification under subparagraph (A)(i) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with subparagraph (A)(ii)).*

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room or board for any child who has not attained 18 years of age.

(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training *including training on youth development* to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting **【adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.】** *youth preparing for a successful transition to adulthood and making a permanent connection with a caring adult.*

(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State; and that the State will negotiate in good faith with

any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.

(H) A certification by the chief executive officer of the State that the State will ensure that [adolescents] *youth* participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the [adolescents] *youth* accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State educational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use—

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5); and

(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program.

(K) A certification by the chief executive officer of the State that the State will ensure that [an adolescent] *a youth* participating in the program under this section are provided with education about the importance of designating another individual to make health care treatment decisions on behalf of [the adolescent] *the youth* if [the adolescent] *the youth* becomes unable to participate in such decisions and [the adolescent] *the youth* does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if [the adolescent] *the youth* wants to do so.

(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) **AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.**—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) **AVAILABILITY.**—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) **ALLOTMENTS TO STATES.**—

(1) **GENERAL PROGRAM ALLOTMENT.**—From the amount specified in subsection (h)(1) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the ratio to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2).

(2) **HOLD HARMLESS PROVISION.**—

(A) **IN GENERAL.**—The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) **RATABLE REDUCTION OF CERTAIN ALLOTMENTS.**—In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) **VOUCHER PROGRAM ALLOTMENT.**—From the amount, if any, appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) **STATE FOSTER CARE RATIO.**—In this subsection, the term “State foster care ratio” means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year.

(d) **USE OF FUNDS.**—

(1) **IN GENERAL.**—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) TWO-YEAR AVAILABILITY OF FUNDS.—Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year.

(4) REALLOCATION OF UNUSED FUNDS.—If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary or *does not expend allocated funds within the time period specified under section 477(d)(3)*, the funds to which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary.

(5) REDISTRIBUTION OF UNEXPENDED AMOUNTS.—

(A) AVAILABILITY OF AMOUNTS.—*To the extent that amounts paid to States under this section in a fiscal year remain unexpended by the States at the end of the succeeding fiscal year, the Secretary may make the amounts available for redistribution in the 2nd succeeding fiscal year among the States that apply for additional funds under this section for that 2nd succeeding fiscal year.*

(B) REDISTRIBUTION.—

(i) IN GENERAL.—*The Secretary shall redistribute the amounts made available under subparagraph (A) for a fiscal year among eligible applicant States. In this subparagraph, the term “eligible applicant State” means a State that has applied for additional funds for the fiscal year under subparagraph (A) if the Secretary determines that the State will use the funds for the purpose for which originally allotted under this section.*

(ii) AMOUNT TO BE REDISTRIBUTED.—*The amount to be redistributed to each eligible applicant State shall be the amount so made available multiplied by the State foster care ratio, (as defined in subsection (c)(4), except that, in such subsection, “all eligible applicant States (as defined in subsection (d)(5)(B)(i))” shall be substituted for “all States”).*

(iii) TREATMENT OF REDISTRIBUTED AMOUNT.—*Any amount made available to a State under this paragraph shall be regarded as part of the allotment of the State under this section for the fiscal year in which the redistribution is made.*

(C) TRIBES.—*For purposes of this paragraph, the term “State” includes an Indian tribe, tribal organization, or tribal consortium that receives an allotment under this section.*

(e) PENALTIES.—

(1) USE OF GRANT IN VIOLATION OF THIS PART.—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is in-



consistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.—The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

(f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.—

(1) IN GENERAL.—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after the date of the enactment of this section.

[(2) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1) and a proposal to impose penalties consistent with paragraph (e)(2) on States that do not report data.]

(2) REPORT TO CONGRESS.—*Not later than October 1, 2017, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the National Youth in Transition Database and any other databases in which States report outcome measures relating to children in foster care and children who have aged out of foster care or left foster care for kinship guardianship or adoption. The report shall include the following:*

(A) *A description of the reasons for entry into foster care and of the foster care experiences, such as length of stay,*

*number of placement settings, case goal, and discharge reason of 17-year-olds who are surveyed by the National Youth in Transition Database and an analysis of the comparison of that description with the reasons for entry and foster care experiences of children of other ages who exit from foster care before attaining age 17.*

*(B) A description of the characteristics of the individuals who report poor outcomes at ages 19 and 21 to the National Youth in Transition Database.*

*(C) Benchmarks for determining what constitutes a poor outcome for youth who remain in or have exited from foster care and plans the Executive branch will take to incorporate these benchmarks in efforts to evaluate child welfare agency performance in providing services to children transitioning from foster care.*

*(D) An analysis of the association between types of placement, number of overall placements, time spent in foster care, and other factors, and outcomes at ages 19 and 21.*

*(E) An analysis of the differences in outcomes for children in and formerly in foster care at age 19 and 21 among States.*

(g) EVALUATIONS.—

(1) IN GENERAL.—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) FUNDING OF EVALUATIONS.—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section and for payments to States under section 474(a)(4), there are authorized to be appropriated to the Secretary for each fiscal year—

(1) \$140,000,000 or, beginning in fiscal year 2020, \$143,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.

(i) EDUCATIONAL AND TRAINING VOUCHERS.—The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section *who have attained 14 years of age*.

(2) For purposes of the voucher program, youths who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program [on the date they attain 21 years of age to remain eligible until they attain 23] *to remain eligible until they attain 26 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program, but in no event may a youth participate in the program for more than 5 years (whether or not consecutive)*.

(4) The voucher or vouchers provided for an individual under this section—

(A) may be available for the cost of attendance at an institution of higher education, as defined in section 102 of the Higher Education Act of 1965; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 472 of that Act.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.

(j) AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGANIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN ALLOTMENT.—

(1) IN GENERAL.—An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

(2) APPLICATION.—A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which

a portion of an allotment under subsection (c) would be re-directed to the tribe, organization, or consortium; and

(C) contains an explanation of the results of such consultation, particularly with respect to—

(i) determining the eligibility for benefits and services of Indian children to be served under the programs to be carried out under the plan; and

(ii) the process for consulting with the State in order to ensure the continuity of benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

(3) PAYMENTS.—The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 474(a)(4) (and, where requested, and if funds are appropriated, section 474(e)) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

(4) ALLOTMENT.—From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under section 477(c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

(5) TRIBAL FOSTER CARE RATIO.—For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

(B) the sum of—

(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or

under supervision of the State) that have a plan approved under this subsection.

\* \* \* \* \*

**SEC. 479A. ANNUAL REPORT.**

(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) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part;

(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;

(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) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child;

(B) the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year as a percentage of the total number of the visits that would occur during the fiscal year if each child were so visited once every month while in such care; and

(C) the percentage of the visits that occurred in the residence of the child; and

(7) include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on—

(A) children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including—

[(i) 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;

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

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

[(iv) 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;

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

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

(i) with respect to each such placement—

(I) the type of the placement setting, including whether the placement is shelter care, a group home and if so, the range of the child population in the home, a residential treatment facility, a hospital or institution providing medical, rehabilitative, or psychiatric care, a setting specializing in providing prenatal, post-partum or parenting supports, or some other kind of child-care institution and if so, what kind;

(II) the number of children in the placement setting and the age, race, ethnicity, and gender of each of the children;

(III) for each child in the placement setting, the length of the placement of the child in the setting, whether the placement of the child in the setting is the first placement of the child and if not, the number and type of previous placements of the child, and whether the child has special needs or another diagnosed mental or physical illness or condition; and

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

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

(B) 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.

**SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.**

(a) **DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS.**—In this section, the terms “Indian tribe” and “tribal organization” have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) **AUTHORITY.**—Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 471 in accordance with this section.

(c) **PLAN REQUIREMENTS.**—

(1) **IN GENERAL.**—An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 471 the following:

(A) **FINANCIAL MANAGEMENT.**—Evidence demonstrating that the tribe, organization, or consortium has not had any uncorrected significant or material audit exceptions under Federal grants or contracts that directly relate to the administration of social services for the 3-year period prior to the date on which the plan is submitted.

(B) **SERVICE AREAS AND POPULATIONS.**—For purposes of complying with section 471(a)(3), a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

(C) **ELIGIBILITY.**—

(i) **IN GENERAL.**—Subject to clause (ii) of this subparagraph, an assurance that the plan will provide—

(I) foster care maintenance payments under section 472 only on behalf of children who satisfy the eligibility requirements of section 472(a);

(II) adoption assistance payments under section 473 pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section; **[and]**

(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 473(d) only on behalf of children who meet the requirements of section 473(d)(3)**[.]; and**

(IV) *at the option of the tribe, organization, or consortium, services and programs specified in section 471(e)(1) to children described in section 471(e)(2) and their parents or kin caregivers, in accordance with section 471(e) and subparagraph (E).*

(ii) **SATISFACTION OF FOSTER CARE ELIGIBILITY REQUIREMENTS.**—For purposes of determining whether a

child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 471 in accordance with this section satisfies the requirements of section 472(a), the following shall apply:

(I) USE OF AFFIDAVITS, ETC.—Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 472(a) shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under that paragraph.

(II) AFDC ELIGIBILITY REQUIREMENT.—The State plan approved under section 402 (as in effect on July 16, 1996) of the State in which the child resides at the time of removal from the home shall apply to the determination of whether the child satisfies section 472(a)(3).

(D) OPTION TO CLAIM IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING COSTS DURING INITIAL IMPLEMENTATION PERIOD.—Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 474(a)(3). The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

(i) NO EFFECT ON AUTHORITY FOR TRIBES, ORGANIZATIONS, OR CONSORTIA TO CLAIM EXPENDITURES OR INDIRECT COSTS TO THE SAME EXTENT AS STATES.—Nothing in this subparagraph shall be construed as preventing a tribe, organization, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 474(a) that a State with a plan approved under section 471(a) could claim for such purposes.

(ii) FISCAL YEAR 2010 OR 2011.—

(I) EXPENDITURES OTHER THAN FOR TRAINING.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 474(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required



under this subparagraph to be submitted with the plan.

(II) TRAINING EXPENDITURES.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 474(a)(3), not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

(III) SOURCES DESCRIBED.—For purposes of subclause (II), the sources described in this subclause are the following:

(aa) A State or local government.

(bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.

(cc) A public institution of higher education.

(dd) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)).

(ee) A private charitable organization.

(iii) FISCAL YEAR 2012, 2013, OR 2014.—

(I) IN GENERAL.—Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

(II) TRANSITION PERIOD FOR EARLY APPROVED TRIBES, ORGANIZATIONS, OR CONSORTIA.—Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the ear-

lier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

(III) DEFINITION OF EARLY APPROVED TRIBE, ORGANIZATION, OR CONSORTIUM.—For purposes of subclause (II) of this clause, the term “early approved tribe, organization, or consortium” means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 471 in accordance with this section for any quarter of fiscal year 2010 or 2011.

(iv) FISCAL YEAR 2015 AND THEREAFTER.—Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any subparagraph of such section 474(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

(v) CONTINGENCY RULE.—If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for under section 474(a)(3) of this Act, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise—

(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under sec-

tion 471(a) of this Act could not claim in-kind expenditures from third-party sources for such purposes.

**(E) PREVENTION SERVICES AND PROGRAMS FOR CHILDREN AND THEIR PARENTS AND KIN CAREGIVERS.—**

(i) *IN GENERAL.*—*In the case of a tribe, organization, or consortium that elects to provide services and programs specified in section 471(e)(1) to children described in section 471(e)(2) and their parents or kin caregivers under the plan, the Secretary shall specify the requirements applicable to the provision of the services and programs. The requirements shall, to the greatest extent practicable, be consistent with the requirements applicable to States under section 471(e) and shall permit the provision of the services and programs in the form of services and programs that are adapted to the culture and context of the tribal communities served.*

(ii) *PERFORMANCE MEASURES.*—*The Secretary shall establish specific performance measures for each tribe, organization, or consortium that elects to provide services and programs specified in section 471(e)(1). The performance measures shall, to the greatest extent practicable, be consistent with the prevention services measures required for States under section 471(e)(6) but shall allow for consideration of factors unique to the provision of the services by tribes, organizations, or consortia.*

(2) **CLARIFICATION OF TRIBAL AUTHORITY TO ESTABLISH STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND TRIBAL CHILD CARE INSTITUTIONS.**—For purposes of complying with section 471(a)(10), an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

(3) **CONSORTIUM.**—The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

**(d) DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE [FOR FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE PAYMENTS].—**

(1) **PER CAPITA INCOME.**—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), [and (5)] (5), and (6)(A) of section 474(a), the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

(2) CONSIDERATION OF OTHER INFORMATION.—Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

(e) NONAPPLICATION TO COOPERATIVE AGREEMENTS AND CONTRACTS.—Any cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under this part that is in effect as of the date of enactment of this section shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

(f) JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—Except as provided in section 477(j), subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 477 (or with respect to payments made under section 474(a)(4) or grants made under section 474(e)).

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting the application of section 472(h) to a child on whose behalf payments are paid under section 472, or the application of section 473(b) to a child on whose behalf payments are made under section 473 pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.

\* \* \* \* \*

## VIII. ADDITIONAL VIEWS

### ADDITIONAL VIEWS FOR H.R. 5456

We believe in the importance of providing a federal incentive for states to invest in prevention and early intervention for the safety of children. This bill makes eventual progress toward that objective, but there are several major problems with it. First, this bill provides no immediate relief for the crises facing so many children endangered now. No additional funds are provided for prevention this year, next year, or the following year. Not until the final quarter of 2019—more than three years from now—will funds be available to children who are the victims of abuse and neglect, including the many impacted by the opioid crisis. Texas and Mississippi foster care has already been declared unconstitutional, and litigation is pending because of foster care failings in a number of other states. Further delay means further impairment of the future for so many young Americans.

Second, this bill continues a Republican tradition of the Ways and Means Committee that vulnerable children can receive federal relief only from money taken from other children or other portions of initiatives within the jurisdiction of the Human Resources Subcommittee. Once again, this bill takes from Peter to pay Paul, this time in the form of cuts to congregate foster care and adoption assistance to families for children who would otherwise be in foster care. The cuts to congregate care are imposed without an alternative placement—where will these kids go? Republicans rejected the use of additional resources to prevent child abuse, including a simple tax compliance measure that would require the filing of a 1099 for alimony payments that would have provided more than \$2 billion of resources, without raising a dime of taxes.

The failure to provide sufficient resources means this bill fails to provide sufficient resources for family members, who are caring for children when their parents cannot as an alternative to foster care. Senators Hatch and Wyden agreed upon a bipartisan proposal of kinship assistance that would have provided approximately \$1.7 billion. This bill has whittled down their kinship assistance proposal to about \$126 million, or less than 8% of what was originally proposed. This is not a compromise worthy of celebration.

Third, this bill makes wholly unjustified and discriminatory cuts to adoption assistance. The sole reason for these cuts is budgetary—that was apparently the easiest way to find funds instead of adding the necessary revenue paid for, in part, by delaying funding for children under the age of 4 to be adopted out of foster care, for those children with special needs, both physical and mental, who are the hardest to adopt. According to a law Congress passed in 2008, those adopting 2- and 3-years-olds who would otherwise have been entering foster care would have been eligible in October

for modest federal assistance; infants and 1-year-olds would have been eligible next year. Now, that funding will be delayed 2½ years, to pay for new prevention services for children, none of which become available until 2020. The only excuse given for taking almost \$700 million that otherwise would have supported adoptions is that some states are failing to reinvest in foster children the money that they save in foster care costs for each child who is adopted. There is no example of fraud or abuse, only the all too typical diversion by some states for other public services. Some states like Texas, which so regularly ignores the needs of its children, reinvested only a dime every dollar of savings in foster care. Others like Florida followed federal law and reinvested every dollar of their savings. This bill discriminates against Florida and similar states.

Nor does this bill propose any meaningful action to prevent diversion by states like Texas. In 2014, Congress enacted provisions of the Preventing Sex Trafficking and Strengthening Families Act to prevent diversion. The Administration should enforce that Act. Requesting that the Government Accountability Office provide information already available in the attached chart from the U.S. Department of Health and Human Services adds nothing not already known, but if desired, it could have been requested long ago with a mere letter. Seeking another report represents cover for taking away resources to help blameless infants and toddlers.

We have a serious problem that deserves a serious state-federal, bipartisan solution. We are not opposing today's bill but it is does far less than its promoters pretend. It is a true missed opportunity to help some of our most vulnerable Americans. Today's bill does something, someday. We ought to be doing more today.

LLOYD DOGGETT.  
JIM McDERMOTT.

**Federal Fiscal Year (FFY) 2015  
Annual Adoption Savings Calculation and Accounting Report (Form CB-496 Part 4)**

Reported Data As Of: June 7, 2016

Table 1 - FFY 2015 Calculated Adoption Savings

State/Tribe	Calculation Method - Children's Bureau (CB); CB - Actual Amounts; Alternate Approved	Average Monthly Number of Children "Applicable Child Only" Status	Calculated Savings from Adoption Assistance Payments	Calculated Savings from Adoption Administration	Total FFY 2015 Calculated Adoption Savings - All Funding Categories
Alabama	Children's Bureau	99	\$409,634	\$30,517	\$440,151
Alaska	CB - Actual Amounts	77	364,477	36,141	\$400,618
Arizona	Children's Bureau	258	1,499,230	141,279	\$1,640,509
Arkansas	CB - Actual Amounts	230	705,218	38,220	\$743,438
California	Alternate Approved	1,012	5,485,122	1,057,594	\$6,542,716
Colorado	CB - Actual Amounts	139	277,089	31,770	\$308,859
Connecticut	CB - Actual Amounts	139	937,560	422,992	\$1,360,552
Delaware	CB - Actual Amounts	5	29,271	3,071	\$32,342
District of Columbia	CB - Actual Amounts	0	0	0	\$0
Florida	Children's Bureau	795	2,433,517	969,468	\$3,402,985
Georgia	Children's Bureau	365	1,559,396	109,259	\$1,668,655
Hawaii	CB - Actual Amounts	26	159,735	6,329	\$166,064
Idaho	CB - Actual Amounts	32	115,851	21,779	\$137,630
Illinois	CB - Actual Amounts	809	3,080,772	790,303	\$3,871,075
Indiana	Children's Bureau	493	2,457,254	175,669	\$2,632,923
Iowa	Children's Bureau	197	881,212	90,839	\$972,051
Kansas	CB - Actual Amounts	217	607,665	41,425	\$649,090
Kentucky	Children's Bureau	583	4,245,429	39,577	\$4,285,006
Louisiana	CB - Actual Amounts	177	555,327	104,987	\$660,314
Maine	CB - Actual Amounts	79	391,057	42,001	\$433,058
Maryland	CB - Actual Amounts	94	504,630	9,715	\$514,345
Massachusetts	Children's Bureau	0	0	0	\$0
Michigan	CB - Actual Amounts	862	5,099,711	899,849	\$5,999,560
Minnesota	CB - Actual Amounts	159	622,684	224,349	\$847,033
Mississippi	CB - Actual Amounts	1	6,003	1,143	\$7,146
Missouri	CB - Actual Amounts	292	548,300	164,303	\$712,603
Montana	CB - Actual Amounts	35	144,453	22,273	\$166,726
Nebraska	Alternate Approved	179	671,856	70,522	\$742,378
Nevada	CB - Actual Amounts	140	664,801	136,772	\$801,573
New Hampshire	CB - Actual Amounts	5	12,426	2,835	\$15,261
New Jersey	CB - Actual Amounts	52	263,069	99,277	\$362,346
New Mexico	Children's Bureau	18	84,828	13,054	\$97,882
New York	Children's Bureau	736	4,573,017	113,021	\$4,686,038
North Carolina	Children's Bureau	406	1,886,818	128,866	\$2,015,684
North Dakota	Alternate Approved	48	267,448	55,732	\$323,180
Ohio	Alternate Approved	1,214	1,415,152	3,092,773	\$4,507,925
Oklahoma	CB - Actual Amounts	630	2,404,351	414,773	\$2,819,124
Oregon	CB - Actual Amounts	271	1,265,665	202,104	\$1,467,769
Pennsylvania	Alternate Approved	51	1,959,925	150,064	\$2,109,989
Puerto Rico	CB - Actual Amounts	0	0	0	\$0
Rhode Island	Children's Bureau	17	64,100	10,383	\$74,483
South Carolina	Children's Bureau	118	391,733	101,373	\$493,106
South Dakota	CB - Actual Amounts	40	134,071	9,837	\$143,908
Tennessee	CB - Actual Amounts	537	3,469,889	26,007	\$3,495,896
Texas	Alternate Approved	1,724	5,205,705	412,870	\$5,618,575
Utah	Alternate Approved	159	446,487	23,750	\$470,237
Vermont	CB - Actual Amounts	21	95,422	2,954	\$98,376
Virginia	Children's Bureau	327	2,241,899	298,154	\$2,540,053
Washington	CB - Actual Amounts	199	601,301	98,087	\$699,388
West Virginia	CB - Actual Amounts	316	1,373,531	11,390	\$1,384,921
Wisconsin	CB - Actual Amounts	104	769,484	69,836	\$839,320
Wyoming	Children's Bureau	0	0	0	\$0
Chickasaw Nation*1	No Report Required	No Data	No Data	No Data	No Data
Keeweenaw Bay Indian Comm.	CB - Actual Amounts	0	0	0	\$0
Navajo Nation	CB - Actual Amounts	0	0	0	\$0
Port Gamble S'Klallam Tribe	CB - Actual Amounts	0	0	0	\$0
<b>TOTALS</b>		<b>14,487</b>	<b>\$63,383,575</b>	<b>\$11,019,286</b>	<b>\$74,402,861</b>

\*1- The Chickasaw Nation's title IV-E plan was approved with an effective date of July 1, 2015. The tribe, however, did not report any title IV-E claims for the Adoption Assistance program on form CB-496 for FFY 2015 reporting periods and thus is not subject to adoption savings reporting for FFY 2015.

**Federal Fiscal Year (FFY) 2015  
Annual Adoption Savings Calculation and Accounting Report (Form CB-496 Part 4)**  
Reported Data As Of: June 7, 2016

Table 2 - FFY 2015 Expenditure of Calculated Adoption Savings

State/Tribe	Total FFY 2015 Calculated Adoption Savings - All Funding Categories	Expenditures on Post-Adoption or Post-Guardianship Services	Expenditures on Services for Children At-Risk of Foster Care	Expenditures on Other Title IV-B or Title IV-E Allowable Services	Total Expenditures of FFY 2015 Calculated Savings - All Identified Services	Unexpended Balance (Total FFY 2015 Savings less Total Expenditures)
Alabama	\$440,151	\$436,145	\$0	\$0	\$436,145	\$4,006
Alaska	400,618	100,214	300,404	0	400,618	\$0
Arizona	1,640,509	1,640,509	0	0	1,640,509	\$0
Arkansas	743,438	114,705	114,701	480,049	709,455	\$33,983
California	6,542,716	0	0	0	0	\$6,542,716
Colorado	308,859	0	0	0	0	\$308,859
Connecticut	1,360,552	96,071	462,902	0	558,973	\$801,579
Delaware	32,342	0	0	0	0	\$32,342
District of Columbia	0	0	0	0	0	\$0
Florida	3,402,985	2,452,013	950,972	0	3,402,985	\$0
Georgia	1,668,655	1,535,084	0	133,571	1,668,655	\$0
Hawaii	166,064	0	0	0	0	\$166,064
Idaho	137,630	0	0	0	0	\$137,630
Illinois	3,871,075	966,402	194,921	2,709,752	3,871,075	\$0
Indiana	2,632,923	0	0	0	0	\$2,632,923
Iowa	972,051	0	0	0	0	\$972,051
Kansas	649,090	0	0	0	0	\$649,090
Kentucky	4,285,006	0	0	0	0	\$4,285,006
Louisiana	660,314	198,094	0	462,220	660,314	\$0
Maine	433,058	433,058	0	0	433,058	\$0
Maryland	514,345	0	51,434	360,042	411,476	\$102,869
Massachusetts	0	0	0	0	0	\$0
Michigan	5,999,560	5,999,560	0	0	5,999,560	\$0
Minnesota	847,033	306,110	0	0	306,110	\$540,923
Mississippi	7,146	0	0	0	0	\$7,146
Missouri	712,603	0	0	0	0	\$712,603
Montana	166,726	2,000	0	0	2,000	\$164,726
Nebraska	742,378	440,989	230,867	0	671,856	\$70,522
Nevada	801,573	160,315	240,472	400,786	801,573	\$0
New Hampshire	15,261	6,976	8,285	0	15,261	\$0
New Jersey	362,346	0	0	0	0	\$362,346
New Mexico	97,882	19,866	78,016	0	97,882	\$0
New York	4,686,038	0	0	0	0	\$4,686,038
North Carolina	2,015,684	0	0	0	0	\$2,015,684
North Dakota	323,180	0	0	0	0	\$323,180
Ohio	4,507,925	0	0	0	0	\$4,507,925
Oklahoma	2,819,124	0	0	0	0	\$2,819,124
Oregon	1,467,769	0	0	0	0	\$1,467,769
Pennsylvania	2,109,989	0	0	0	0	\$2,109,989
Puerto Rico	0	0	0	0	0	\$0
Rhode Island	74,483	0	0	0	0	\$74,483
South Carolina	493,106	0	0	0	0	\$493,106
South Dakota	143,908	143,908	0	0	143,908	\$0
Tennessee	3,495,896	700,000	380,014	2,415,882	3,495,896	\$0
Texas	5,618,575	0	161,858	400,000	561,858	\$5,056,717
Utah	470,237	0	238,400	0	238,400	\$231,837
Vermont	98,376	98,376	0	0	98,376	\$0
Virginia	2,540,053	254,977	0	594,946	849,923	\$1,690,130
Washington	699,388	180,391	0	420,910	601,301	\$98,087
West Virginia	1,384,921	0	0	0	0	\$1,384,921
Wisconsin	839,320	839,320	0	0	839,320	\$0
Wyoming	0	0	0	0	0	\$0
Chickasaw Nation*1	No Data	No Data	No Data	No Data	No Data	No Data
Keweenaw Bay Indian Comm.	0	0	0	0	0	\$0
Navajo Nation	0	0	0	0	0	\$0
Port Gamble S'Klallam Tribe	0	0	0	0	0	\$0
<b>TOTALS</b>	<b>\$74,402,861</b>	<b>\$17,125,083</b>	<b>\$3,413,246</b>	<b>\$8,378,158</b>	<b>\$28,916,487</b>	<b>\$45,486,374</b>

\*1- The Chickasaw Nation's title IV-E plan was approved with an effective date of July 1, 2015. The tribe, however, did not report any title IV-E claims for the Adoption Assistance program on form CB-496 for FFY 2015 reporting periods and thus is not subject to adoption savings reporting for FFY 2015.