

## **THE ADOPTION AND SAFE FAMILIES ACT OF 1997**

On November 19, 1997 the President signed the Adoption and Safe Families Act (Public Law 105-89), in an effort to promote adoption and ensure safety for children in foster care. Major provisions are summarized below.

### **Child Safety and “Reasonable Efforts” to Preserve Families**

- The Adoption and Safe Families Act requires that a child's health and safety be of “paramount” concern in any efforts made by the State to preserve or reunify the child's family. The new law establishes exceptions to the “reasonable efforts” requirement.
- The legislation requires States to conduct criminal background checks for all prospective foster or adoptive parents, and deny approval to anyone who has ever been convicted of specific crimes.

### **“Reasonable Efforts” to Promote Adoption**

- The new law also specifies that concurrent efforts can be made to preserve or reunify a family and to place the child for adoption or guardianship.
- The Act contains provisions intended to eliminate interjurisdictional issues as a potential barrier to a child's adoption.

### **Excelerate Permanency Hearings and Termination of Parental Rights**

- Prior Federal law required that every foster child must have a judicial hearing, known as a “dispositional” hearing, within 18 months of their placement in care to determine their future status. The new law requires this hearing to occur within 12 months of placement, and changes the name to “permanency” hearing.
- States are required to initiate proceedings to terminate parental rights (TPR) for children who have been in foster care for 15 of the most recent 22 months, for infants determined under State law to be abandoned, and in any case where the court has found that a parent has committed specific crimes. There was no comparable provision in prior law.

### **Adoption Incentive Payments**

- The Act intends to promote adoption by providing incentive payments to States that increase their number of foster child adoptions, with additional incentives for the adoption of foster children with special needs.

- Incentive payments will equal \$4,000 for each foster child whose adoption is finalized (over base level) and \$6,000 for each special needs adoption above the base level. The new law authorizes \$20 million annually for these incentive payments, for fiscal years 1999-2003. In addition, discretionary budget caps are adjusted to help ensure that these funds will actually be appropriated.
- HHS is authorized to provide technical assistance to help States increase their number of foster child adoptions, and authorizes appropriations of \$10 million annually for each of fiscal years 1998-2000.

### **Eligibility for Adoption and Medical Assistance**

- Children eligible for Federal adoption assistance under title IV-E are automatically eligible for Medicaid. States have the option to provide Medicaid coverage to special needs adopted children who do not meet the AFDC or SSI eligibility criteria for title IV-E subsidies.
- The Act requires States to provide health insurance coverage to these children, if they have special needs for medical, mental health, or rehabilitative care. Coverage may be through Medicaid or another program, as long as benefits are comparable. To be eligible for adoption incentive payments in FY 2000 or FY 2001 or a waiver demonstration, States must provide health coverage to any special needs child whose adoptive parents have entered into an adoption assistance agreement with any State.

### **Reauthorization and Renaming of Family Preservation Program**

- The Act reauthorizes and changes the name of the existing Family Preservation Program to Promoting Safe and Stable Families. This program was scheduled to expire at the end of fiscal year 1998 and is reauthorized under Public Law 105-89 at: \$275 million in fiscal year 1999; \$295 million in fiscal year 2000; and \$305 million in fiscal year 2001.
- Prior law required States to devote significant expenditures to each of two types of services: family preservation; and community-based family support. The Adoption and Safe Families Act adds two more categories: time-limited family reunification services provided during the 15-month period after a child is removed from home; and adoption promotion and support services.

### **State Accountability for Performance**

The Adoption and Safe Families Act also aims to increase the accountability of States for the performance of their child welfare programs. The legislation requires HHS, in consultation with public officials and child welfare advocates, to develop outcome measures in various categories (i.e., number of foster care placements and adoptions, length of stay in foster care), and to rate State performance according to these measures in an annual report.

The first annual report is due by May 1, 1999. In addition, the new law directs HHS to conduct a study and develop recommendations for a performance-based financial incentive system under titles IV-B and IV-E. To the extent feasible, this system will be based on the annual performance report described above. HHS must submit a progress report to Congress within 6 months of the new law's enactment, and a final report within 15 months.

### **State Innovation and Demonstration Waivers**

Under legislation enacted in 1994, HHS is authorized to approve up to 10 States to receive waivers from title IV-B and IV-E rules in order to conduct demonstration projects. The Adoption and Safe Families Act allows HHS to approve an additional 10 demonstrations in each of fiscal years 1998-2002. Federal law does not mandate specific goals for these demonstrations. However, the new law directs the Secretary to give consideration to any applications received with the following purposes: (1) to identify and address barriers to adoption for foster children; (2) to identify and address parental substance abuse problems that result in foster care placement for children, including through placement of children together with their parents in appropriate residential treatment facilities; and (3) to address kinship care.

### **Additional Provisions**

Additional provisions in Public Law 105-89: require HHS to submit a report to Congress by June 1, 1999, on the issue of kinship care; give child welfare agencies access to the Federal Parent Locator Service; clarify eligibility for the Independent Living Program; establish a sense of Congress in favor of standby guardianship laws; and make a statement of intent about "reasonable" parenting. Unless specified otherwise, the new law takes effect upon enactment, except that, where enactment of new State laws is required, States have until 3 months after their first legislative session to comply.

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## Administration for Children and Families

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**Administration on Children, Youth and Families**

**1. Log No: ACYF-PI-CB-98-02**

**2. Issuance Date: 1/8/98**

**3. Originating Office: Children's Bureau**

**4. Key Words: Adoption and Safe Families Act of 1997; Public Law 105-89; Amendments to Title IV-B Subparts 1 and 2 and Title IV-E of the Social Security Act; State Automated Child Welfare Information System (SACWIS)**

### PROGRAM INSTRUCTION

**TO:** State and Territorial Agencies Administering or Supervising the Administration of Title IV-B and Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

**SUBJECT:** NEW LEGISLATION -- Public Law 105-89, The Adoption and Safe Families Act of 1997

**LEGAL AND RELATED REFERENCES:** The Adoption and Safe Families Act of 1997 (Public Law 105-89), Titles IV-B and IV-E, Section 403(b), Section 453, and Section 1130(a) of the Social Security Act

**PURPOSE:** The purpose of this Program Instruction (PI) is to inform States of new legislation amending titles IV-B and IV-E of the Social Security Act and provide guidance for implementing the new law. This PI also provides the effective dates for implementing Public Law 105-89 and early notification of the impact of the new law on State Automated Child Welfare Information Systems (SACWIS).

### **OVERVIEW:**

This Program Instruction transmits Public Law 105-89 and a compilation of titles IV-B and IV-E, as amended by the Adoption and Safe Families Act of 1997 (ASFA). It also provides guidance for States' early implementation of the law. The PI is divided into three parts: Part I contains principles to assist States in understanding the new provisions and integrating the law into ongoing reforms of the child welfare system; Part II stipulates the effective dates of the new legislation; and Part III discusses how the law may impact States' SACWIS and other information systems.

- **The child welfare system must focus on results and accountability.** The law makes it clear that it is no longer enough to ensure that procedural safeguards are met. It is critical that child welfare services lead to positive results. The law requires numerous tools for focusing attention on results, including an annual report on State performance; the creation of an adoption incentive payment for States designed to support the President's goal of doubling the annual number of children who are adopted or permanently placed by the year 2002; and a requirement for the Department to study and make recommendations regarding additional performance-based financial incentives in child welfare.
- **Innovative approaches are needed to achieve the goals of safety, permanency and well-being.** The law recognizes that we do not yet have all of the solutions to achieve our goals. By expanding the authority for child welfare demonstration waivers, the law provides a mechanism to allow States greater flexibility to develop innovative strategies to achieve positive results for children and families.

There is much to be done in the coming months as we work together to implement this multi-faceted new law. This Program Instruction is the first of the communications that the Department will send to assist the States in meeting the requirements of ASFA. We will also be consulting with State representatives and other experts in the field to help guide our work in implementing the new law. Working together, we have the opportunity to dramatically improve the lives of children and families.

## **PART II. EFFECTIVE DATES FOR IMPLEMENTING PUBLIC LAW 105-89:**

### General Effective Date of Public Law 105-89

The effective date of Public Law 105-89 is November 19, 1997. States are expected to comply with the provisions of the law as of that date, with the exceptions noted below.

### Exceptions to Effective Date: Determination of Required State Legislation

A limited period of delay is permitted when the Secretary determines that a State must enact legislation to comply with certain State plan requirements. Section 501(b) of Public Law 105-89 authorizes the Secretary to determine those State plan requirements that will necessitate State legislation.

### Delayed Effective Date

A "delayed effective date" will apply only to those requirements that the Secretary has determined require State legislation. The "delayed effective date" is defined in Section 501(b) as the beginning of the calendar quarter following the close of the State's first regular legislative session.

Following is a list of new or amended State plan requirements contained in titles IV-B and IV-E, as amended by ASFA:

Listed below are sections of ASFA that **may** have possible implications for a State's SACWIS. This list may not identify every conceivable consequence of the new law on SACWIS:

1. Section 101: SACWIS may need to be modified to appropriately record and track the "reasonable efforts" requirements identified in subsection (A), the "aggravated" or other circumstances identified in subsection (D) and the timely completion of the permanency hearing identified in subsection (E). [title IV-E, sections 471(a)(15) and 475(5)(C)]
2. Section 103: SACWIS may need to be modified to track the "total" number of months a child has been in foster care to conform with section 475(5)(E) and determine the beginning of foster care, as defined in section 475(5)(F). Also, SACWIS may need to be modified to assist the State in implementing the transition rule outlined in section 103(c). States should note that the "beginning of foster care" as defined in section 475(5)(F) should not be confused with the AFCARS data element 21, "date of latest removal from the home," which remains the same as defined in 45 CFR 1355.40, Appendix A. [title IV-E, section 475(5)(E) and(F)]
3. Section 104: The notice generation function of a State's SACWIS may need to be expanded to ensure that the applicable parties "are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child." Considering that SACWIS is currently required to generate notices, we would not expect this to cause a significant change to the design of the system. [title IV-E, section 475(5)(G)]
4. Section 105: If the State child welfare agency elects to use the Federal Parent Locator Service (FPLS) for child welfare services, it may need to modify its current interface with the State's title IV-D Child Support Enforcement system. We would expect that the benefits of pursuing this option would include enhancing a State's capacity to identify other family caretakers with whom the child could be placed, and expediting termination of parental rights when reunification is not an option and a suitable relative placement is not available. [title IV-D, section 453(a)(2),(c)]
5. Section 106: If a State chooses to conduct criminal background checks on foster and adoptive parents, and the State uses its SACWIS to process foster care or adoptive home applications, SACWIS may be modified to record the results of the background check. [title IV-E, section 471(a)(20)]
6. Section 107: In the case of a child for whom the permanency plan is adoption or placement in another permanent home, SACWIS may need to be modified to appropriately record and track "the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child ... and to finalize the adoption or legal guardianship." [title IV-E, section 475(1)(E)]
7. Section 307: SACWIS may need to be modified to maintain the prior eligibility information on behalf of children with special needs whose initial adoption has been dissolved or whose adoptive parents have died. [title IV-E, section 473(a)(2)]

PUBLIC LAW 105-89—NOV. 19, 1997

111 STAT. 2115

Public Law 105-89  
105th Congress

An Act

To promote the adoption of children in foster care.

Nov. 19, 1997

[H.R. 867]

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Adoption and Safe Families Act of 1997”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Adoption and  
Safe Families Act  
of 1997.

42 USC 1305  
note.

Sec. 1. Short title; table of contents.

**TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR  
FOSTER CARE AND ADOPTION PLACEMENTS**

- Sec. 101. Clarification of the reasonable efforts requirement.
- Sec. 102. Including safety in case plan and case review system requirements.
- Sec. 103. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.
- Sec. 104. Notice of reviews and hearings; opportunity to be heard.
- Sec. 105. Use of the Federal Parent Locator Service for child welfare services.
- Sec. 106. Criminal records checks for prospective foster and adoptive parents.
- Sec. 107. Documentation of efforts for adoption or location of a permanent home.

**TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR  
CHILDREN**

- Sec. 201. Adoption incentive payments.
- Sec. 202. Adoptions across State and county jurisdictions.
- Sec. 203. Performance of States in protecting children.

**TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS**

- Sec. 301. Authority to approve more child protection demonstration projects.
- Sec. 302. Permanency hearings.
- Sec. 303. Kinship care.
- Sec. 304. Clarification of eligible population for independent living services.
- Sec. 305. Reauthorization and expansion of family preservation and support services.
- Sec. 306. Health insurance coverage for children with special needs.
- Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been dissolved.
- Sec. 308. State standards to ensure quality services for children in foster care.

**TITLE IV—MISCELLANEOUS**

- Sec. 401. Preservation of reasonable parenting.
- Sec. 402. Reporting requirements.
- Sec. 403. Sense of Congress regarding standby guardianship.
- Sec. 404. Temporary adjustment of Contingency Fund for State Welfare Programs.
- Sec. 405. Coordination of substance abuse and child protection services.
- Sec. 406. Purchase of American-made equipment and products.

**TITLE V—EFFECTIVE DATE**

- Sec. 501. Effective date.

“(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)) 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 may be made concurrently with reasonable efforts of the type described in subparagraph (B).”

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

“(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.”

(c) **CONFORMING AMENDMENT.**—Section 472(a)(1) of such Act (42 U.S.C. 672(a)(1)) is amended by inserting “for a child” before “have been made”.

(d) **RULE OF CONSTRUCTION.**—Part E of title IV of such Act (42 U.S.C. 670-679) is amended by inserting after section 477 the following:

**“SEC. 478. RULE OF CONSTRUCTION.**

42 USC 678.

“Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).”

**SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.**

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended—

(1) in section 422(b)(10)(B)—

42 USC 622.

(A) in clause (iii)(I), by inserting “safe and” after “where”; and

(B) in clause (iv), by inserting “safely” after “remain”; and

(2) in section 475—

42 USC 675.

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting “safety and” after “discussion of the”; and

(ii) in subparagraph (B)—

(I) by inserting “safe and” after “child receives”; and

(II) by inserting “safe” after “return of the child to his own”; and

“(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.”.

(c) TRANSITION RULES.—

42 USC 675 note.

(1) NEW FOSTER CHILDREN.—In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act) under the responsibility of a State after the date of the enactment of this Act—

(A) if the State comes into compliance with the amendments made by subsection (a) of this section before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

(2) CURRENT FOSTER CHILDREN.—In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall—

(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than  $\frac{1}{3}$  of such children as the State shall select, giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act) is adoption and children who have been in foster care for the greatest length of time;

(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than  $\frac{2}{3}$  of such children as the State shall select; and

(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS.—For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS.—For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of

42 USC 675 note.

for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that—

“(i) in any case 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 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) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State.”.

**SEC. 107. DOCUMENTATION OF EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.**

Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended—

(1) in the last sentence—

(A) by striking “the case plan must also include”; and

(B) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

(2) by adding at the end the following:

“(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.”.

or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

“(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 INCENTIVE PAYMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

“(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

“(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the 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 this section 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 this section for the fiscal year shall be—

“(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section 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 incentive payments otherwise payable under this section for the fiscal year.

“(e) 2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

“(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. 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 423, 434, and 474.

“(g) DEFINITIONS.—As used in this section:

“(1) 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.

“(2) SPECIAL NEEDS ADOPTION.—The term ‘special needs adoption’ means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

“(3) BASE NUMBER OF FOSTER CHILD ADOPTIONS.—The term ‘base number of foster child adoptions for a State’ means—

“(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 1998 through 2000.”.

(b) DISCRETIONARY CAP ADJUSTMENT FOR ADOPTION INCENTIVE PAYMENTS.—

(1) SECTION 251 AMENDMENT.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as amended by section 10203(a)(4) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subparagraph:

*Ante*, p. 698.

“(G) ADOPTION INCENTIVE PAYMENTS.—Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted that specifies an amount for adoption incentive payments pursuant to this part for the Department of Health and Human Services—

“(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed \$20,000,000; and

“(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.”.

(2) SECTION 314 AMENDMENT.—Section 314(b) of the Congressional Budget Act of 1974, as amended by section 10114(a) of the Balanced Budget Act of 1997, is amended—

*Ante*, p. 688.

(A) by striking “or” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; or”; and

(C) by adding at the end the following:

“(6) in the case of an amount for adoption incentive payments (as defined in section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed \$20,000,000.”.

SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) STATE PLAN FOR CHILD WELFARE SERVICES REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(12) contain assurances that the State shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.”.

(b) CONDITION OF ASSISTANCE.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

“(e) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has—

“(1) denied or delayed 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

“(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; and

“(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.”.

(b) **DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM.**—The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall study, develop, and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on the State’s performance under such a system. Such a system shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required by section 479A of the Social Security Act (as added by subsection (a) of this section) or on any proposed modifications of the annual report. Not later than 6 months after the date of the enactment of this Act, 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 progress report on the feasibility, timetable, and consultation process for conducting such a study. Not later than 15 months after such date of enactment, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the final report on a performance-based incentive system. The report may include other recommendations for restructuring the program and payments under parts B and E of title IV of the Social Security Act.

42 USC 679b  
note.

### **TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS**

#### **SEC. 301. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.**

(a) **IN GENERAL.**—Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9) is amended to read as follows:

“(a) **AUTHORITY TO APPROVE DEMONSTRATION PROJECTS.**—

“(1) **IN GENERAL.**—The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

“(2) **LIMITATION.**—The Secretary may authorize not more than 10 demonstration projects under paragraph (1) in each of fiscal years 1998 through 2002.

“(3) **CERTAIN TYPES OF PROPOSALS REQUIRED TO BE  
CONSIDERED.**—

“(A) If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to identify and address barriers

the State agency has documented to the State court a compelling reason for determining 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”.

**SEC. 303. KINSHIP CARE.**

42 USC 5113  
note.

**(a) REPORT.—**

**(1) IN GENERAL.—**The Secretary of Health and Human Services shall—

(A) not later than June 1, 1998, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as “kinship care”); and

(B) not later than June 1, 1999, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall—

(i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and

(ii) include the policy recommendations of the Secretary with respect to the matter.

**(2) REQUIRED CONTENTS.—**Each report required by paragraph (1) shall—

(A) include, to the extent available for each State, information on—

(i) the policy of the State regarding kinship care;

(ii) the characteristics of the kinship care providers (including age, income, ethnicity, and race, and the relationship of the kinship care providers to the children);

(iii) the characteristics of the household of such providers (such as number of other persons in the household and family composition);

(iv) how much access to the child is afforded to the parent from whom the child has been removed;

(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

(vi) the permanency plan for the child and the actions being taken by the State to achieve the plan;

(vii) the services being provided to the parent from whom the child has been removed; and

(viii) the services being provided to the kinship care provider; and

(B) specifically note the circumstances or conditions under which children enter kinship care.

**(b) ADVISORY PANEL.—**

**(1) ESTABLISHMENT.—**The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster

(B) in subsection (b)(1), by striking “and family support” and inserting “, family support, time-limited family reunification, and adoption promotion and support”.

(2) DEFINITIONS OF TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended by adding at the end the following:

“(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) 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.”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PURPOSES.—Section 430(a) of the Social Security Act (42 U.S.C. 629(a)) is amended by striking “and community-based family support services” and inserting “, community-based family support services, time-limited family reunification services, and adoption promotion and support services”.

(B) PROGRAM TITLE.—The heading of subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.) is amended to read as follows:

### **“Subpart 2—Promoting Safe and Stable Families”.**

(c) EMPHASIZING THE SAFETY OF THE CHILD.—

(1) REQUIRING ASSURANCES THAT THE SAFETY OF CHILDREN SHALL BE OF PARAMOUNT CONCERN.—Section 432(a) of the Social Security Act (42 U.S.C. 629b(a)) is amended—

(A) by striking “and” at the end of paragraph (7);

the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

42 USC 671 note. **SEC. 402. REPORTING REQUIREMENTS.**

Any information required to be reported under this Act shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regulations issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.

**SEC. 403. SENSE OF CONGRESS REGARDING STANDBY GUARDIANSHIP.**

It is the sense of Congress that the States should have in effect laws and procedures that permit any parent who is chronically ill or near death, without surrendering parental rights, to designate a standby guardian for the parent's minor children, whose authority would take effect upon—

- (1) the death of the parent;
- (2) the mental incapacity of the parent; or
- (3) the physical debilitation and consent of the parent.

**SEC. 404. TEMPORARY ADJUSTMENT OF CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.**

(a) **REDUCTION OF APPROPRIATION.**—Section 403(b)(2) of the Social Security Act (42 U.S.C. 603(b)(2)) is amended by inserting “, reduced by the sum of the dollar amounts specified in paragraph (6)(C)(ii)” before the period.

(b) **INCREASE IN STATE REMITTANCES.**—Section 403(b)(6) of such Act (42 U.S.C. 603(b)(6)) is amended by adding at the end the following:

“(C) **ADJUSTMENT OF STATE REMITTANCES.**—

“(i) **IN GENERAL.**—The amount otherwise required by subparagraph (A) to be remitted by a State for a fiscal year shall be increased by the lesser of—

“(I) the total adjustment for the fiscal year, multiplied by the adjustment percentage for the State for the fiscal year; or

“(II) the unadjusted net payment to the State for the fiscal year.

“(ii) **TOTAL ADJUSTMENT.**—As used in clause (i), the term ‘total adjustment’ means—

“(I) in the case of fiscal year 1998, \$2,000,000;

“(II) in the case of fiscal year 1999, \$9,000,000;

“(III) in the case of fiscal year 2000, \$16,000,000; and

“(IV) in the case of fiscal year 2001, \$13,000,000.

“(iii) **ADJUSTMENT PERCENTAGE.**—As used in clause (i), the term ‘adjustment percentage’ means, with respect to a State and a fiscal year—

“(I) the unadjusted net payment to the State for the fiscal year; divided by

**TITLE V—EFFECTIVE DATE**42 USC 622 note. **SEC. 501. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as otherwise provided in this Act, the amendments made by this Act take effect on the date of enactment of this Act.

(b) **DELAY PERMITTED IF STATE LEGISLATION REQUIRED.**—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 Act, 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 such session shall be deemed to be a separate regular session of the State legislature.

Approved November 19, 1997.

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**LEGISLATIVE HISTORY—H.R. 867:**

HOUSE REPORTS: No. 105-77 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 143 (1997):

Apr. 30, considered and passed House.

Nov. 8, considered and passed Senate, amended.

Nov. 13, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 33 (1997):

Nov. 19, Presidential remarks.

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## **TITLE IV**

### **PART B--CHILD AND FAMILY SERVICES**

#### **Subpart 1--Child Welfare Services**

##### **APPROPRIATION**

SEC. 420. [42 U.S.C. 620] (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of \$325,000,000.

(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

##### **ALLOTMENTS TO STATES**

SEC. 421. [42 U.S.C. 621] (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot \$70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

(b) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce.

(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in--

(A) covering additional political subdivisions,

(B) reaching additional children in need of services, and

(C) expanding and strengthening the range of existing services and developing new types of services, along with a description of the State's child welfare services staff development and training plans;

(7) 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;

(8) 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;

(9) 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;

(10) provide assurances that the State--

(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined--

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) 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) 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

(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection (c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

## REALLOTMENT

SEC. 424. [42 U.S.C. 624] (a) IN GENERAL.--Subject to subsection (b), the amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallocations shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallocated to a State shall be deemed part of its allotment under section 421.

(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.--The Secretary shall not reallocate under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(10).

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b)(1) There are authorized to be appropriated \$4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

(2) The demonstration projects conducted under this section may include--

(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

(5) No project may be funded unless the application therefor contains assurances that it will--

(A) provide for adequate evaluation;

(B) provide for coordination with local governments;

(C) provide for community education regarding the inappropriate hospitalization of infants;

(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

(E) meet such other criteria as the Secretary may prescribe.

(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

(2) provides assurances that the institution will--

(A) enter into agreements with child welfare agencies for onsite training of recipients;

(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.

#### NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE

SEC. 429A. [42 U.S.C. 628b] (a) IN GENERAL.--The Secretary shall conduct (directly, or by grant, contract, or interagency agreement) a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected.

(b) REQUIREMENTS.--The study required by subsection (a) shall--

(1) have a longitudinal component; and

(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

(c) PREFERRED CONTENTS.--In conducting the study required by subsection (a), the Secretary should--

(1) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

(2) follow each case for several years while obtaining information on, among other things--

(A) the type of abuse or neglect involved;

(B) the frequency of contact with State or local agencies;

(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

(D) the number, type, and characteristics of out-of-home placements of the child; and

(E) the average duration of each placement.

(d) REPORTS.--

(1) IN GENERAL.--From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

(d) RESERVATION OF CERTAIN AMOUNTS.--

(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.--The Secretary shall reserve \$2,000,000 of the amount described in subsection (b) for fiscal year 1994, and \$6,000,000 of the amounts so described for each of fiscal years 1995, 1996, 1997, ~~and 1998-1998, 1999, 2000, and 2001~~, for expenditure by the Secretary--

(A) for research, training, and technical assistance related to the program under this subpart; and

(B) for evaluation of State programs 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 program under this subpart.

(2) STATE COURT ASSESSMENTS.--The Secretary shall reserve \$5,000,000 of the amount described in subsection (b) for fiscal year 1995, and \$10,000,000 of the amounts so described for each of fiscal years 1996, 1997, ~~and 1998-1998, 1999, 2000, and 2001~~, for grants under section 13712 of the Omnibus Budget Reconciliation Act of 1993.

(3) Indian tribes.--The Secretary shall reserve 1 percent of the amounts described in subsection (b) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

## DEFINITIONS

SEC. 431. [42 U.S.C. 629a] (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); and

(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

(b) Other Terms.--For other definitions of other terms used in this subpart, see section 475.

## STATE PLANS

SEC. 432. [42 U.S.C. 629b] (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 ~~and community-based family support 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 ~~and community-based family support services~~,

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 with plans approved under this subpart with the same or larger numbers of children.

## ALLOTMENTS TO STATES

SEC. 433. [42 U.S.C. 629c] (a) INDIAN TRIBES.--From the amount reserved pursuant to section 430(d)(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.

(b) TERRITORIES.--From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) 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 421.

(c) OTHER STATES.--

(1) IN GENERAL.--From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) and subsection (b) of this section for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

(2) FOOD STAMP PERCENTAGE DEFINED.--

(A) IN GENERAL.--As used in paragraph (1) of this subsection, the term "food stamp percentage" means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

(B) FISCAL YEARS USED IN CALCULATION.--For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

## PAYMENTS TO STATES

program under this subpart, in accordance with criteria established in accordance with paragraph (2).

(2) **CRITERIA TO BE USED.**--In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as--

(A) State agencies administering programs under this part and part E;

(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

(b) **COORDINATION OF EVALUATIONS.**--The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.

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## **Part E--Federal Payments for Foster Care and Adoption Assistance**

### **PURPOSE: APPROPRIATION**

SEC. 470. [42 U.S.C. 670] 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. [42 U.S.C. 671] (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;

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

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

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

(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) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;~~

~~(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~~

provides for a case review system which meets the requirements described in section 475(5)(B) 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; and

(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; and

(20)(A) unless an election provided for in subparagraph (B) is made with respect to the State, provides procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that--

(i) in any case 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 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) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State; and

(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

administration of the State plan approved under section 471 has made an agreement which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

(4) such child--

(A) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) (as in effect on July 16, 1996) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

In any case where the child is an alien disqualified under section 245A(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(2)(B)), with respect to that month, if he or she would have satisfied such requirements but for such 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 nonprofit 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 nonprofit 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, but the term shall not include detention facilities, forestry camps, training schools, or any

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.

#### ADOPTION ASSISTANCE PROGRAM

SEC. 473. [42 U.S.C. 673] (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) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child--

(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as such sections were in effect on July 16, 1996) or would have met such requirements except for his removal from the home of a relative (specified in section 406(a) (as so in effect)) or, either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) (as such section was in effect on July 16, 1996) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits, or

(iii) 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 his or her minor parent as provided in section 475(4)(B),

(B)(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) (as in effect on July 16, 1996) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

(iii) is a child described in subparagraph (A)(ii) or (A)(iii), and

(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).

(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 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), or

(B) with respect to whom foster care maintenance payments are being made under section 472.

(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, a child shall not be considered a child with special needs unless--

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) 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.

#### **SEC. 473A. ADOPTION INCENTIVE PAYMENTS.**

(1) **IN GENERAL.**--Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of--

(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the 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 this section 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 this section for the fiscal year shall be--

(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section 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 incentive payments otherwise payable under this section for the fiscal year.

(e) **2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.**--Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

(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. 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 423, 434, and 474.

(g) **DEFINITIONS.**--As used in this section:

(1) **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.

(2) **SPECIAL NEEDS ADOPTION.**--The term 'special needs adoption' means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

(3) **BASE NUMBER OF FOSTER CHILD ADOPTIONS.**--The term 'base number of foster child adoptions for a State' means--

(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

SEC. 474. [42 U.S.C. 674] (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of--

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) 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; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

(3) 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 and the members of the staff of State-licensed or State-approved child care institutions providing care to foster and adopted children receiving assistance under this part, in ways that increase the ability of such current or prospective parents, staff members, and institutions to provide support and assistance to foster and adopted children, 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

(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 section 471(a)(18) 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 section 471(a)(18) 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) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has--

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.

(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, and reasonable travel to the child's home for visitation. 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

change in the child's placement, and to any determination affecting visitation privileges of parents; and

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and 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

(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; and

(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; and

(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 an opportunity to be heard in, any review or hearing 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 review or hearing solely on the basis of such notice and opportunity to be heard.

(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

subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.

(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for any succeeding fiscal year such description and assurances must be submitted prior to February 1 of such fiscal year.

(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to--

(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

(3) provide for individual and group counseling;

(4) integrate and coordinate services otherwise available to participants;

(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

(7) provide participants with other services and assistance designed to improve their transition to independent living.

(e)(1)(A) The basic amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1987 and any succeeding fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

(B) The maximum additional amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1991 and any succeeding fiscal year shall be an amount which bears

for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.

**SEC. 478. RULE OF CONSTRUCTION.** Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).

#### COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

**SEC. 479.** [42 U.S.C. 679] (a)(1) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the "Advisory Committee") to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(2) The study required by paragraph (1) shall--

(A) identify the types of data necessary to--

(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

(ii) develop appropriate national policies with respect to adoption and foster care;

(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

(D) evaluate the financial and administrative impact of implementing each such method.

- (1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;
- (2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;
- (3) provide comprehensive national information with respect to--
  - (A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,
  - (B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),
  - (C) the number and characteristics of--
    - (i) children placed in or removed from foster care,
    - (ii) children adopted or with respect to whom adoptions have been terminated, and
    - (iii) children placed in foster care outside the State which has placement and care responsibility, and
  - (D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and
- (4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

**SEC. 479A. ANNUAL REPORT.** 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; and
- (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.

Title IV-B / Title IV- E STATE PLAN - STATE OF \_\_\_\_\_

REQUIRED STATE LEGISLATION

I hereby certify that State legislation **is/is not** necessary to comply with the following titles IV-B and IV-E State plan requirements contained in Public Law 105-89, The Adoption and Safe Families Act of 1997 (*check all that apply only if legislation is necessary*):

Title IV-B, Subparts 1 and 2:

- ☐ Including safety in case plan and case review requirements [section 422(b)(10)]
- ☐ Adoptions across State and county jurisdictions [section 422(b)(12)]
- ☐ Requiring assurances that the safety of children shall be the paramount concern [section 432(a)(9)]

Title IV-E:

- ☐ Clarification of the reasonable efforts requirement [section 471(a)(15)]
- ☐ Criminal record checks for prospective foster and adoptive parents [section 471(a)(20)]
- ☐ Health insurance coverage for children with special needs [section 471(a)(21)]
- ☐ State standards to ensure quality services for children in foster care [section 471(a)(22)]
- ☐ State requirement to initiate or join proceedings within a specified time to terminate parental rights for certain children in foster care [section 475(5)(E) and (F)]

Therefore, I **do/do not** request a delay of the effective date for the implementation of the requirements checked above, as set forth in Section 501(b) of Public Law 105-89. The estimated delayed effective date for these requirements will be \_\_\_\_\_ (the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that began after November 19, 1997).

\_\_\_\_\_  
(Date)\_\_\_\_\_  
(Signature of Designated State Agency Official)\_\_\_\_\_  
(Title)

Approval Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature, ACF Regional Administrator or Designee)

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES  
WASHINGTON, D.C. 20447  
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(vacant)

WHSO LAYOUT DRAFT 3

a/o 11/18/97; S. Warren

**ADOPTION BILL SIGNING**

**Wednesday, November 19, 1997**

Gates Open: 12:45 p.m.

Invite Time: 1:15 p.m.

**Principal Time: 1:30 p.m.**

Approx. 180 Guests/Open Press/Business Attire

12:30 p.m. IN PLACE TIME

*Set-up Notes: Volunteer at Coat Check at Family Theater, Volunteer at East Entrance, Social Aid at Stair Top to greet guests, Social Aid at Stair Bottom, Grand Foyer, and East Room.*

12:45 p.m. East Visitors Gate opens and guests proceed to East Room to be seated.

*Note: 9 Social Aids; String and Piano in Grand Foyer.*

*Gate SIC:*

*Seating SIC:*

*Press Pool Contact: Kris Engskov*

*Press/Media Contact: Kara Gerhardt*

1:10 p.m. **THE PRESIDENT, THE FIRST LADY, and THE VICE PRESIDENT** are briefed in the Map Room.

1:30 p.m. **THE PRESIDENT, THE FIRST LADY, AND THE VICE PRESIDENT** proceed to Blue Room to greet guests:

*Blue Room SIC:*

*Secretary Donna Shalala*

*Ms. Sue Ann Badeau*

*Brother/Sister of Sue Ann Badeau*

*Mr. Dave Thomas*

*Sen. Jay Rockefeller*

*Rep. Barbara Kennelly*

*Sen. John Chafee*

*Rep. Clay Shaw*

*Sen. Mary Landrieu*

*Rep. Dave Camp*

*Sen. Mike DeWine*

*Rep. James Oberstar*

*Sen. Larry Craig*

*Rep. Carolyn Maloney*

*Rep. Connie Morella*

*Rep. Sandy Levin*

*Note: Upon conclusion of meet and greet, the Blue Room guests who are not speaking will be seated in the East Room.*

*Note: Sen. Rockefeller, Sen. Chafee, Rep. Kennelly, and Rep. Camp are seated on stage.*

THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

November 13, 1997

STATEMENT BY THE PRESIDENT

I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home. I very much look forward to signing the Adoption and Safe Families Act of 1997 into law.

This legislation makes clear that children's health and safety are the paramount concerns of the public child welfare system. I am particularly pleased that the bill incorporates my Administration's recommendations to provide states with financial incentives to increase the number of children who are adopted and to make other changes in federal law that will make adoption easier and move children more rapidly out of foster care and into permanent homes. The legislation also strengthens support to states for services that help families stay together when that is possible and promote adoption when it is not. Most important, this legislation will help us meet the goal of doubling, by the year 2002, the number of children who are adopted or permanently placed each year.

I want to thank the many members of the Senate and the House of Representatives who worked so hard on this bipartisan achievement, but I particularly want to thank the congressional leadership and the sponsors of this legislation, Senators Chafee and Rockefeller and Representatives Camp and Kennelly, for their commitment. And I would like to add a special word of thanks to the First Lady for her tenacity and dedication to this important issue.

I can think of no better way to celebrate National Adoption Month than to sign this legislation into law.

###

# **PRESIDENT CLINTON SIGNS THE ADOPTION AND SAFE FAMILIES ACT OF 1997**

**November 19, 1997**

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal funds will continue for programs that work to keep families together when it is appropriate and safe to do so.

## **Ensuring that Children are Safe**

Clarifies Reasonable Efforts: As the President proposed, the new law ensures that children's health and safety are the paramount concerns of the public child welfare system. It clarifies that there are instances when states are not required to make "reasonable efforts" to keep children with their parents, such as when a parent has been convicted of murdering another child or a child has been abandoned, tortured, or chronically abused.

## **Doubling the Number of Children Adopted or Permanently Placed by 2002**

Creates Financial Incentives: The new law contains the President's plan to offer a financial bonus to states that increase the number of children who are adopted from the public foster care system. These incentives will help to double the number of children adopted. For every additional child adopted, a state will receive \$4,000, with an additional \$2,000 paid for each child with special needs. The Act authorizes \$20 million for each of 5 years (FY 1999 to FY 2003) for the bonuses, though eventually the bonuses will be offset by savings in foster care expenses.

Establishes Tighter Time Limits: Children who cannot safely return to their own families often wait far too long in foster care -- typically over 3 years, but for many much longer. Under the new law, permanency hearings will now be held no later than 12 months after a child enters foster care, 6 months earlier than under previous law, and states must initiate termination of parental rights proceedings, except in specified circumstances, for any child who has been in foster care for 15 of the previous 22 months.

## **Breaking Down Barriers, Promoting Safe and Stable Families, and Achieving Accountability**

Eliminating Obstacles: The new law prohibits delaying or denying adoptions across state or county lines, thereby breaking geographic barriers to adoption.

Providing Supportive Services: The new law ensures that children with special needs keep health insurance coverage when they are adopted, either through Medicaid or through the new children's health program. In addition, the new law reauthorizes the Family Preservation and Family Support Services Program, renamed Promoting Safe and Stable Families, which provides services to strengthen families before crises occur and to ensure safe, stable homes for children who return to their families.

Emphasizing Results for Children: The new law authorizes HHS, in consultation with states, to develop new measures to track and rate state performance efforts in providing child welfare services to ensure successful results for children.

Recognizing Success: Prior to the bill signing today, HHS recognized 13 awardees for significant achievement in helping both adopted children and those waiting for adoption. Among the awardees are families, foundations, members of the media and states that have improved the management of child welfare programs.

# THE CLINTON ADMINISTRATION RECORD ON ADOPTION

November 19, 1997

*"I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home." -- Statement by President Clinton, November 13, 1997*

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal support will continue for services to keep families together when it is appropriate and safe.

The Clinton Administration has previously taken several important steps to encourage and increase adoptions and to support the families who choose to open their hearts and their homes to these children. Since taking office in 1993, the President has championed programs that find and assist adoptive families, and has committed his Administration to breaking down barriers, including high adoption costs and complex regulations. These steps include:

**MAKING ADOPTION AFFORDABLE FOR FAMILIES.** Last year, President Clinton signed into law the Small Business Job Protection Act of 1996, which provides a \$5,000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. This provision has alleviated a significant barrier to adoption, helping middle class families for whom adoption may be prohibitively expensive and making it easier for families to adopt children with special needs. Since President Clinton took office, the number of children with special needs who have been adopted with federal adoption assistance has risen by 60 percent. This year, in signing the Balanced Budget Act of 1997, President Clinton ensured more support for families who adopt children with the \$500 Per-Child Tax Credit.

**GIVING STATES FLEXIBILITY AND SUPPORT.** To test innovative strategies to improve child welfare systems, the Clinton Administration has granted child welfare waivers to California, Delaware, Indiana, Illinois, Maryland, North Carolina, Ohio and Oregon, giving the states more flexibility in tailoring services to meet the needs of children and families. Up to two more states will receive approval for waivers under previous authority. Under the new Adoption and Safe Families Act, HHS will grant up to 10 waivers per year to states. In addition, this Administration has provided states with enhanced technical support and helped improve court operations. In September, HHS awarded 40 demonstration grants to states, local agencies, courts, private organizations, and others committed to promoting adoption, a total of \$7.9 million, for innovative programs to increase adoptions and reduce the number of children in foster care. To prevent children from entering foster care in the first place, in 1993 the Clinton Administration secured federal funding for the Family Preservation and Family Support Program to help states, local governments and service providers develop effective programs to serve children and families at risk.

**BREAKING DOWN RACIAL AND ETHNIC BARRIERS TO ADOPTION.** The Small Business Job Protection Act of 1996 also ensures that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity by strengthening the Multi-Ethnic Placement Act which the President signed in 1994.

**PROVIDING SUPPORTS FOR CHILD PROTECTION AND ADOPTION.** In 1993, President Clinton signed into law the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or health insurance. In addition, the welfare reform bill that the President signed into law maintains the guarantee of child protection and adoption, and does not reduce funds for child welfare, child abuse, foster care and adoption services.

**RAISING PUBLIC AWARENESS.** Through speeches, writings, events and public service announcements, the President and First Lady have promoted the importance and benefits of adoption.

THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

November 19, 1997

REMARKS BY THE PRESIDENT  
AND FIRST LADY  
AT ADOPTION BILL SIGNING

The East Room

1:53 P.M. EST

MRS. CLINTON: Thank you and welcome to the East Room. Please be seated. We are delighted to have all of you join us today for this very important event and one that many of you in this room have worked for and looked for for many years.

There are some people that I would like to acknowledge and introduce before we get started. You will hear from the four members of Congress who are here on the stage, Representative Kennelly, Representative Camp, Senator Chafee and Senator Rockefeller. Also attending are Senator Craig, Senator DeWine, Senator Landrieu, Representative Levin, Representative Oberstar, Representative Maloney, and Representative Morella. And I'd like to ask all the members of Congress to please stand. (Applause.)

This was truly a bipartisan piece of legislation. It could not have been passed without the strong support of the members whom you see, including the sponsors who are here on the stage. It was also a work that was very much in the heart of Secretary Donna Shalala and her team from HHS -- Richard Tarplin, Mary Bourdette, and Carol Williams. And I'd like to ask the Secretary and her team to stand please. (Applause.)

There were also a number of members of the White House staff who worked very hard with members of Congress and with members of the HHS contingent, and I'd like to acknowledge just a few of them

-- John Hilley, Bruce Reed, Elena Kagan, and in particular Jen Klein and Nicole Rabner. I want to thank all of them. (Applause.)

I'm also pleased that we have Governor Romer of Colorado. We have children, families, advocates, and leaders of the child welfare constituency here in our audience.

Nearly a year ago, the President and I met with children waiting in the foster care system for caring families to call their own. There the President pledged to reform the child welfare system to work better for the children it serves, to put their health and safety first, and to move children more quickly into safe and permanent homes. Today we as a nation make good on that pledge.

And for the thousands of American children who wait for a stable, loving home that will always be there, it is not a moment too soon. Right now there are nearly half a million children in foster care. For most, foster care is a safe haven on the road to a permanent home or back home. Too many, however, make countless detours along the way, shuffling from family to family without much hope that they will ever find permanent parents to love and take care of them. These children who will enter this holiday season unsure about whether the family they celebrate this year will be there with them next year deserve better.

We know it makes a difference for children to have permanent loving homes. It's not only research that tells us this; we know it by our intuition, by our own experience and we have all seen it firsthand. It was here in this room two years ago that a young woman named Deanna -- a child waiting to be adopted in foster care stood up and read a poem about what she wanted in life, and it wasn't real complicated. It is what all of us want. I'm happy that because of that event here in the East Room, she was able to meet a family who did adopt her. And I saw her last year at an event in Kansas City and almost didn't recognize her -- from a shy, withdrawn 13-year-old, she had blossomed into a cheerful, outgoing, confident teenager with a brilliant smile.

This landmark legislation that the President is about to sign will see to it there are more stories like Deanna's. This legislation stands as proof of what we can accomplish when we come together. As we see today, the national government does have an important role to play in reforming our foster care system, and giving guidance to courts and states in offering incentives to speed up and increase the numbers of adoptions, and in making sure that the

health and safety of our children is always the first priority.

But we know even more, all Americans have a role and a responsibility. Businesses can make it easier for their employees to adopt a child. And I want to single out Dave Thomas of Wendy's, who has led the way in showing all of us how that can be done. (Applause.)

Religious leaders can help spread the word about the joys of adoptions. Parents thinking about adoption can expand their search to reach out to kids in foster care. And if we reform the system so that it works the way that it should, more Americans will look to American children to adopt and not feel compelled to go overseas to adopt children. (Applause.)

With us today are some extraordinary Americans who have answered this call. This morning, the Department of Health and Human Services observed National Adoption Month by honoring outstanding achievements with the 1997 Adoption 2002 Excellence Awards. Secretary Shalala developed these awards at the request of the President. The winners are dedicated individuals and organizations, both large and small, who have worked to move children out of the foster care system and into permanent, loving homes. Some of them have been at the forefront of this issue for years; some have promoted and supported adoption in their communities; and some are parents who have opened their homes and hearts to our nation's most vulnerable children.

I'd like to ask all the honorees who were honored this morning to please stand. (Applause.) We want to thank you for the work you have done, for the example you have set. And we hope that through these awards, in conjunction with this legislation, there will be many, many more in your ranks in the years to come.

\* \* \* \* \*

THE PRESIDENT: Thank you, Sue Ann. Thank you, Aaron (phonetic). And I want to thank the Badeau family for showing up. I think it's fair to say it was a greater effort for them than for anyone else here. (Laughter.) I appreciate the rest of your presence. It was easier for me than anybody; I just had to come downstairs. (Laughter.) But I'm grateful that they're here.

Secretary Shalala, I thank you and your staff for your remarkable work on this. And I thank the members of the White House staff, all the members of Congress who are present here. And especially I thank Senators Rockefeller and Chafee and Congressmen Camp and Kennelly for their work and for what they said here.

Congratulations to the Adoption 2002 Excellence Award winners. I thank all the advocates who are here. And I say a special word of thanks, along with all the others who have said it, to the First Lady, who has been passionately committed to this issue for at least 25 years now that I know. Thank you, Governor Romer, for coming. And thank you, Dave Thomas, for what you've done.

Again let me say to all the members of Congress who are here, Republicans and Democrats alike, I am very grateful for what you've done. This, after all, is what we got in public life for, isn't it?

Before I make my brief remarks, if you'll forgive me and understand, I have to make one public statement today about the situation in Iraq.

As I have said before, I prefer to resolve this situation peacefully, with our friends and allies, and I am working hard to do just that. But I want to be clear again about the necessary objective of any diplomacy now underway. Iraq must comply with the unanimous will of the international community and let the weapons inspectors resume their work to prevent Iraq from developing an arsenal of nuclear, chemical and biological weapons. The inspectors must be able to do so without interference. That's our top line; that's our bottom line. I want to achieve it diplomatically. But we're taking every step to make sure we are prepared to pursue whatever options are necessary.

I do not want these children we are trying to put in stable homes to grow up into a world where they are threatened by terrorists with biological and chemical weapons. It is not right. (Applause.)

It's hard to believe now, but it was just a little less than a year ago when I directed our administration to develop a plan to double the number of children we move from foster care to adoptive homes by the year 2002. We know that foster parents provide safe and caring families for children. But the children should not be trapped in them forever, especially when there are open arms waiting to

welcome them into permanent homes.

The Adoption and Safe Families Act, which I am about to sign, is consistent with the work of the 2002 report and our goals. It fundamentally alters our nation's approach to foster care and adoption. And fundamentally, it will improve the well-being of hundreds of thousands of our most vulnerable children. The new legislation makes it clear that children's health and safety are the paramount concerns of our public child welfare system. It makes it clear that good foster care provides important safe havens for our children, but it is by definition a temporary, not a permanent, setting.

The new law will help us to speed children out of foster care into permanent families by setting meaningful time limits for child welfare decisions, by clarifying which family situations call for reasonable reunification efforts and which simply do not. It will provide states with financial incentives to increase the number of children adopted each year. It will ensure that adopted children with special needs never lose their health coverage -- a big issue. Thank you, Congress, for doing that. It will reauthorize federal funding for timely services to alleviate crisis before they become serious, that aid the reunification of families that help to meet post-adoption needs.

With these measures we help families stay together where reunification is possible and help find safe homes for children much more quickly when it is not. We've come together in an extraordinary example of bipartisan cooperation to meet the urgent needs of children at risk. We put our differences aside, and put our children first.

This landmark legislation builds on other action taken in the last few years by Congress: the Adoption Tax Credit I signed into law August to make adopting children more affordable for families, especially those who adopt children with special needs; the Multiethnic Placement Act, enacted two years ago, ensuring that adoption is free from discrimination and delay, based on race, culture, or ethnicity; and the very first law I signed as President, the Family and Medical Leave Act of 1993, which enables parents to take time off to adopt a child without losing their jobs or their health insurance.

We have put in place here the building blocks of giving all of our children what should be their fundamental right -- a

chance at a decent, safe home; an honorable, orderly, positive upbringing; a chance to live out their dreams and fulfill their God-given capacities.

Now, as we approach Thanksgiving, when families all across our country come together to give thanks for their blessings, I would like to encourage more families to consider opening their homes and their hearts to children who need loving homes. You may not want to go as far as the Badeaus have -- (laughter) -- but they are a shining example of how we grow -- (applause) -- they are a shining example of how we grow when we give, how we can be blessed in return many times over. We thank them and all -- all of the adoptive parents in the country.

For those who are now or have been foster or adoptive parents, I'd like to say thank you on behalf of a grateful nation, and again say at Thanksgiving, let us thank God for our blessings and resolve to give more of our children the blessings they deserve.

Thank you very much. (Applause.)

END

2:19 P.M. EST

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                        | Adoption 2002 Report                                                                                                                                                                                                               | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Numerical Targets to Double Adoptions        | Work with States on numerical goals and targets to double the number of adoptions and other permanent placements by 2002.                                                                                                          | No additional legislative authority needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Technical Assistance                         | Provide technical assistance to State agencies, courts and communities to improve the timeliness of permanency decisions and to increase the number of adoptions and other permanent placements (requested \$10 million per year). | Authorized (but not appropriated) at \$10 million per year for each year FY98 through 2000 (section 201(a)). Specific priority topics for TA are specified, and half the funds must be spent on TA for courts to improve their handling of adoption issues.                                                                                                                                                                                                                                                                       |
| Financial Incentives for Increased Adoptions | Financial incentives to states to increase the number of adoptions from the public child welfare system (per child bonuses).                                                                                                       | Authorized (but not appropriated) at \$20 million per year for each year FY1999 through 2003 (section 201(a)). The discretionary spending cap is adjusted for amounts that may in the future be appropriated for these purposes. Bonuses are in the amounts requested by the Administration (\$4000 per adoption plus an additional \$2000 for each special needs adoption.)                                                                                                                                                      |
| MEPA Implementation                          | Continued aggressive implementation of the Multiethnic Placement Act, as amended.                                                                                                                                                  | No additional legislative authority needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| State-by-State Progress Report               | Publish an annual State-by-State report on success in meeting numerical targets for adoption.                                                                                                                                      | Requires HHS to develop outcome measures and a rating system for child welfare services, based as much as possible on AFCARS data. Requires an annual report to Congress based on such data beginning in May 1999. In addition, the law requires that HHS develop a performance based incentive system for IV-B and IV-E payments (feasibility study due 6 months after enactment and final report due 15 months after enactment). All of these efforts are to be undertaken in consultation with outside partners (section 203). |
| Recognize Success                            | Recognize successful state efforts.                                                                                                                                                                                                | No additional legislative authority needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                       | Adoption 2002 Report                                                                                                                                                                                                                                                                                                                            | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Barrier Removal Grants                      | Provide States with funding to identify and remove barriers to permanency and adoption.                                                                                                                                                                                                                                                         | No provision for such grants, although child welfare waiver demonstrations on this topic are explicitly encouraged.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Hearing Timelines                           | Clarify the purpose of dispositional hearings by renaming them permanency planning hearings and shorten the timeframe until such a hearing is required from 18 months to 12 months. A variety of other steps/approaches to improve timeliness are discussed, but no specific timelines for terminations of parental rights (TPRs) are proposed. | Renames the hearings as permanency hearings and moves them to no later than 12 months after a child enters foster care (section 302). In addition, provides that the state shall file to terminate parental rights for any child in foster care 15 of the past 22 months, for abandoned infants and for children whose parents have been determined by a court of competent jurisdiction to have committed any of a series of specified offenses against the child or a sibling. Exceptions are provided for children in kinship care, cases where the state agency has documented a compelling reason why such action would not be in the child's best interests, or where the state has not provided appropriate services in cases where reasonable efforts are required (section 103). For children whose parents have committed an offense which obviates the need for reasonable efforts, a permanency hearing is required within 30 days (section 101). |
| Reasonable Efforts Clarifications on Safety | Clarify "reasonable efforts" requirements to emphasize that child health and safety should be the paramount concern in making child welfare decisions and to illustrate circumstances in which reunification is not appropriate.                                                                                                                | Adds language on child health/safety and reasonable efforts along the lines envisioned in Adoption 2002 and specifies several types of cases in which reasonable efforts are not required (section 101).<br><br>Also adds safety language to provisions regarding the contents of case plans and requirements for case reviews (section 102).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                 | Adoption 2002 Report                                                                                                                                                                                               | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reasonable Efforts Regarding Adoption | Establish a reasonable efforts requirement to secure an adoptive home when reunification has been ruled out.                                                                                                       | Requires reasonable efforts to find an adoptive home or other permanent living arrangement for children whose permanency plan is other than return home (section 101) and requires documentation of such efforts (section 107). Clarifies that efforts toward adoption may be made concurrently with reunification efforts.                                                                                                                                                                   |
| Use of FPLS in Child Welfare Cases    | Encourage States to use the Federal Parent Locator Service to locate absent parents and relatives who might provide a permanent home for the child and to terminate parental rights when appropriate.              | Specific authority to use the FPLS for these purposes is provided (section 105).                                                                                                                                                                                                                                                                                                                                                                                                              |
| Child Welfare Waivers                 | Increase the number of child welfare demonstration waivers.                                                                                                                                                        | The Secretary may authorize 10 demonstration projects per year for each of FYs 1998-2001. The Secretary is particularly required to consider applications regarding the removal of barriers to adoption, regarding substance abuse treatment and placing children in residential facilities with their mothers, and regarding kinship care. The Secretary further is granted the authority to extend the duration of demonstration projects beyond their initial 5 year period (section 301). |
| Kinship Care                          | Suggests this is an issue that needs further study. Commits to establishing kinship demonstration projects as provided for in the reauthorized CAPTA legislation, and through child welfare demonstration waivers. | HHS must produce a draft report on kinship care which is to be reviewed by an advisory panel on kinship care (to be convened by June 1, 1998), and then issue a final report by June 1, 1999 (section 303). The advisory panel's primary purpose is to review the Secretary's draft report. See also mention of kinship care under the topic of child welfare waivers.                                                                                                                        |

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                                                                                 | Adoption 2002 Report                                                                                                                 | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Interjurisdictional Issues                                                                            | Proposes technical assistance to support the development of collaboratives that encourage placements across geographical boundaries. | The law explicitly prohibits states from delaying or denying adoptive placements outside State or county jurisdictional lines. In addition, title IV-E state plan requirements are amended to include an assurance that the state shall develop plans for the effective use of cross-jurisdictional resources. The GAO is also required to study the issue and to submit a report to Congress within one year of the date of enactment (section 202). |
| Notice of Hearings and Right to Be Heard for Foster Parents, Preadoptive Parents, or other Caretakers | Not addressed.                                                                                                                       | Foster parents, preadoptive parents, and relative caretakers of children must receive notice of and an opportunity to be heard at reviews and hearings regarding the child's status. They do not, however, become a party to the case (section 104).                                                                                                                                                                                                  |
| Criminal Background Checks                                                                            | Not addressed.                                                                                                                       | Each state's IV-E plan must include procedures for conducting criminal background checks for foster parents and adoptive parents. For some crimes, approval would be denied if the crime were committed during the last five years, while for other crimes, approval would be denied regardless of the date of the criminal act. States may opt out of this provision (section 106). —                                                                |
| Clarification of Independent Living Services Eligibility                                              | Not addressed.                                                                                                                       | Clarifies that children shall continue to be eligible for independent living services even if they have accumulated assets up to \$5,000 which would otherwise be counted for eligibility purposes (section 304).                                                                                                                                                                                                                                     |

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                                               | Adoption 2002 Report                                        | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Family Preservation and Support                                     | Not addressed, except to note the need for family services. | Reauthorizes Family Preservation and Support (FP/S) for three years (FY99 through FY2001) at essentially the same levels as in current law with minor increases each year. The program is renamed "Promoting Safe and Stable Families" and two additional categories of services are added, time-limited family reunification services and adoption promotion and support services. In addition, the state plans for the program must include an assurance that the safety of the child shall be of paramount concern in services provided under this program (section 305). |
| Health Insurance Coverage for Adopted Special Needs Children        | Not addressed.                                              | States' IV-E plans must provide for health insurance coverage for special needs children for whom there is a non-IV-E adoption assistance agreement in place (IV-E children already are eligible for Medicaid). Such coverage may be provided either through Medicaid or other means but must be comparable to Medicaid coverage. States may make cost sharing arrangements with adoptive parents for such coverage, taking into account adoptive parents' circumstances and the child's needs (section 306)                                                                 |
| IV-E Eligibility for Special Needs Children Whose Adoptions Disrupt | Not addressed.                                              | If a child placed in an adoptive home under a IV-E adoption assistance agreement comes back into the care of the state, the child's IV-E eligibility shall continue (section 307).                                                                                                                                                                                                                                                                                                                                                                                           |
| Quality Guidelines                                                  | Not addressed.                                              | Each state shall, by January 1, 1999, develop and implement standards assuring that children are provided with quality services that protect their health and safety (section 308). This becomes a IV-E plan requirement.                                                                                                                                                                                                                                                                                                                                                    |
| Preservation of Reasonable Parenting                                | Not addressed.                                              | Clarifies that nothing in this act is intended to intrude upon reasonable methods of parenting (section 401).                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

## COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

| Topic                                                                                                                | Adoption 2002 Report                                                                                                                                                                    | Law as Passed (enrolled version of H.R. 867)                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Standby Guardianships                                                                                                | Not addressed.                                                                                                                                                                          | Provides a sense of the Congress that states should have standby guardianship laws (section 403).                                                                                                                                               |
| Welfare Contingency Fund                                                                                             | Not addressed.                                                                                                                                                                          | In order to pay for the various provisions of the bill, the welfare contingency fund is reduced by \$40 million spread over 5 years. This includes \$2 million in FY98, \$9 million in FY99, \$16 million in FY2000 and \$13 million in FY2001. |
| Report to Ways and Means and Finance Committees on the Coordination of Substance Abuse and Child Protective Services | Not addressed except to note the importance of substance abuse issues to the child protection field and the need for substance abuse services for families in the child welfare system. | Requires HHS to submit a report to Congress on this topic by one year after the date of enactment (section 405).                                                                                                                                |
| Sense of Congress Regarding the Purchase of American-Made Equipment and Products                                     | Not addressed.                                                                                                                                                                          | To the extent practicable all equipment and products purchased with funds under this act should be American-made (section 406).                                                                                                                 |



Child Welfare League of America

## Summary of The Adoption And Safe Families Act Of 1997 (P.L. 105-89)

On November 19, 1997, the President signed into law (P.L. 105-89) the Adoption and Safe Families Act of 1997, to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. This new law makes changes and clarifications in a wide range of policies established under the Adoption Assistance and Child Welfare Act (P.L. 96-272), the major federal law enacted in 1980 to assist the states in protecting and caring for abused and neglected children. The new law:

- **Continues and Expands the Family Preservation and Support Services Program.** The Family Preservation and Support Services Program, renamed the Promoting Safe and Stable Families Program, is reauthorized through FY 2001 at the following levels: FY 1999 at \$275 million; FY 2000 at \$295 million; and FY 2001 at \$305 million. The set-asides are maintained for the Court Improvement Program, evaluation, research, training, technical assistance, and Indian tribes. State plans are now also required to contain assurances that in administering and conducting service programs, the safety of the children to be served will be of paramount concern.

The new law further clarifies that for the purposes of the maintenance of effort requirement in the program, "non-federal funds" may be defined as either state or state and local funds. This change is made retroactive to the enactment of the Family Preservation and Support Services Program (P.L. 103-66) on August 10, 1993.

In addition to the funds to prevent child abuse and neglect and to assist families in crisis, the program's funds specifically include time-limited reunification services such as counseling, substance abuse treatment services, mental health services, assistance for domestic violence, temporary child care and crisis nurseries, and transportation to and from these services. Adoption promotion and support services are also included and are defined as pre- and post-adoptive services and activities designed to expedite the adoption process and support families.

- **Continues Eligibility for the Federal Title IV-E Adoption Assistance Subsidy to Children Whose Adoption is Disrupted.** Any child who was receiving a federal adoption subsidy on or after October 1, 1997, shall continue to remain eligible for the subsidy if the adoption is disrupted or if the adoptive parents die.

**Authorizes Adoption Incentive Payments for States.** The Act authorizes \$20 million for each of FY 1999-2003 for payments to eligible states which exceed the average number of adoptions the state completed during FY 1995-FY 1997, or in FY 1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996. The amount of the bonus is \$4,000 for each foster child adopted and \$6,000 for each adoption of a child with special needs previously in foster care. To be eligible to receive these payments for FY 2001 or FY 2002, states are required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the state and the child's adoptive parents.

- **Requires States to Document Efforts to Adopt.** States are required to make reasonable efforts and document child specific efforts to place a child for adoption, with a relative or guardian, or in another planned permanent living arrangement when adoption is the goal. The law also clarifies that reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to reunify a child with his or her family.

**Expands Health Care Coverage to Non-IV-E Eligible Adopted Children with Special Health**

**Expands Health Care Coverage to Non-IV-E Eligible Adopted Children with Special Health Care Needs.** States are required to provide health insurance coverage for any child with special needs for whom there is an adoption assistance agreement between the state and the adoptive parents and whom the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical, mental health, or rehabilitative care. The health insurance coverage can be provided through one or more state medical assistance programs including Medicaid and must include benefits of the same type and kind as provided under Medicaid. The state may determine cost sharing requirements.

**Authorizes New Funding For Technical Assistance to Promote Adoption.** The U.S. Department of Health and Human Services (HHS) may provide technical assistance to states to promote the adoption, or other alternative permanent placement, of foster children. The technical assistance may include guidelines for expediting termination of parental rights; encouraged use of concurrent planning; specialized units and expertise in moving children toward adoption; risk assessment tools for early identification of children at risk of harm if returned home; encouraged use of fast tracking for children under age one into pre-adoptive placements; and programs to place children into pre-adoptive placements prior to termination of parental rights. At least half of the appropriated funds are reserved for providing technical assistance to the courts.

**Addresses Geographic Barriers to Adoption.** States are required to assure that the state will develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption. The state's Title IV-E foster care and adoption assistance funding is conditioned on the state not denying or delaying a child's adoptive placement, when an approved family is available outside of the jurisdiction with responsibility for the child. Funding is also conditioned upon the state granting opportunities for fair hearings for allegations of violations of the requirements. The U.S. General Accounting Office must study and report to Congress on how to improve procedures and policies to facilitate timely adoptions across state and county lines.

**Establishes Kinship Care Advisory Panel.** HHS is required to prepare and submit, by June 1, 1999, a report for Congress on the extent of the placement of children in foster care with relatives and to convene an advisory panel on kinship care to review and comment on the report before it is submitted.

**Issues Sense of Congress on Standby Guardianship.** It is the Sense of Congress that states should have laws and procedures to permit a parent who is chronically ill or near death to designate a standby guardian for their child, without surrendering their own parental rights. The standby guardian's authority would take effect upon the parent's death, mental incapacity, or physical debilitation and consent.

**Establishes New Time Line and Conditions for Filing Termination of Parental Rights.** Federal law did not require states to initiate termination of parental rights proceedings based on a child's length of stay in foster care. Under the new law, states must file a petition to terminate parental rights and concurrently, identify, recruit, process and approve a qualified adoptive family on behalf of any child, regardless of age, that has been in foster care for *15 out of the most recent 22 months*. A child would be considered as having entered foster care on the earlier of either the date of the first judicial finding of abuse or neglect, or 60 days after the child is removed from the home.

This new requirement applies to children entering foster care in the future and to children already in care. For children already in care, states are required to phase in the filing of termination petitions beginning with children for whom the permanency plan is adoption or who have been in care the longest. One third must be filed within six months of the end of the state's first legislative session following enactment of this law, two-thirds within 12 months and all of them within 18 months. A state must also file such a petition if a court has determined that an infant has been abandoned (as defined in state law) or if a court has determined that a parent of a child has assaulted the child, or killed or assaulted another one of their children. Exceptions can be made to these requirements if: (1) at the state's option, a child is being cared for by a relative; (2) the state agency documents in the case plan which is available for court review, a compelling reason why

agency documents in the case plan which is available for court review, a compelling reason why filing is not in the best interest of the child; or (3) the state agency has not provided to the child's family, consistent with the time period in the case plan, the services deemed necessary to return the child to a safe home.

**Sets New Time Frame for Permanency Hearings.** Former federal law required a dispositional hearing within 18 months of a child's placement into out-of-home care. The new law establishes a permanency planning hearing for children in care that occurs within 12 months of a child's entry into care. At the hearing, there must be a determination of whether and when a child will be returned home, placed for adoption and a termination of parental rights petition will be filed, referred for legal guardianship, or another planned permanent living arrangement if the other options are not appropriate.

**Modifies Reasonable Efforts Provision in P.L. 96-272.** States continue to be required to make reasonable efforts to preserve and reunify families. In making decisions about the removal of a child from, and the child's return to, his or her home, the child's health and safety shall be the paramount concern. *The reasonable efforts requirement does not apply in cases in which a court has found that:*

- the parent has subjected the child to "aggravated circumstances" as defined in state law (including but not limited to abandonment, torture, chronic abuse, and sexual abuse);
- the parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent;
- the parent has committed a felony assault that results in serious bodily injury to the child or another one of their children; or
- the parental rights of the parent to a sibling have been involuntarily terminated

In these cases, states would **NOT** be required to make reasonable efforts to preserve or reunify the family but are required to hold a permanency hearing within 30 days and to make reasonable efforts to place the child for adoption, with a legal guardian, or in another permanent placement.

**Requires States to Check Prospective Foster and Adoptive Parents for Criminal Backgrounds.** States are required to provide procedures for criminal record checks for any prospective foster or adoptive parents, before the parents are approved for placement of a child eligible for federal subsidies. When a criminal record check reveals a felony conviction for child abuse or neglect, spousal abuse, another crime against a child (including child pornography), rape, sexual assault, or homicide, final approval of foster or adoptive parent status shall not be granted. In a case of a felony conviction for physical assault, battery, or a drug-related offense that was committed in the past five years, approval could not be granted. States can opt out of this provision either through a written notice from the Governor to HHS, or through state law enacted by the state legislature.

**Requires Notice of Court Reviews and Opportunity to be Heard to Foster Parents, Preadoptive Parents and Relatives.** A foster parent, any preadoptive parent or relative caring for a child must be given notice of, and an opportunity to be heard in, any review or hearing involving the child. This provision does not require that any foster or preadoptive parent or relative be made a party to such a review or hearing.

**Directs States to Establish Standards to Ensure Quality Services.** By January 1, 1999, states are required to develop and implement standards to ensure that children in foster care placements in public and private agencies are provided quality services that protect the safety and health of the children.

**Requires Assessment of State Performance in Protecting Children.** HHS will develop, in consultation with governors, state legislatures, state and local public officials and child welfare advocates, a set of outcome measures to be used to assess the performance of states in operating child protection and child welfare programs to ensure the safety of children and a system for rating

the performance of states with respect to the outcome measures. HHS must submit an annual report to Congress on state performance including recommendations for improvement. The first report is due May 1, 1999. Outcome measures include length of stay in foster care and number of foster placement adoptions; and, to the extent possible, are to be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS).

**Directs Development of Performance-Based Incentive Funding System.** HHS, in consultation with public officials and child welfare advocates, is required to develop and recommend to Congress a performance-based incentive system for providing payments under Title IV-B and Title IV-E of the Social Security Act by February 1999, and to submit a progress report on the feasibility, timetable and consultation process for conducting such a study by May 1998.

**Expands Child Welfare Demonstration Waivers.** Under previous law, HHS has authority to approve up to ten child welfare demonstration waivers. Eight states (CA, DE, IL, IN, MD, NC, OH, OR) have received approval to date. This new law authorizes HHS to conduct up to 10 demonstration projects per year from FY 1998 through 2002. Specific types of demonstrations to be considered include: projects designed to identify and address reasons for delay in adoptive placements for foster children; projects designed to address parental substance abuse problems that endanger children and result in placement of a child in foster care; and projects designed to address kinship care. Eligibility for these waivers is not available if a state fails to provide health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement.

**Requires Study on the Coordination of Substance Abuse and Child Protection.** HHS will prepare a report which describes the extent and scope of the problem of substance abuse in the child welfare population, the types of services provided to this population, and the outcomes resulting from the provision of such services, including recommendations for legislation needed to improve coordination in providing such services.

**Authorizes the Use of the Federal Parent Locator Service.** Child welfare agencies can now use the Federal Parent Locator Service to assist in locating absent parents.

**Extends Independent Living Services.** Young people who are no longer eligible for federal foster care assistance because their savings and assets exceed \$1,000, will still be eligible for independent living services, provided their assets do not exceed \$5,000.

**Funding Source.** The provisions of this law are partially funded (\$40 million over four years) from an adjustment to the \$2 billion Federal Contingency Fund for State Welfare Programs, created by the 1996 welfare law (P.L. 104-193). HHS is also required to make recommendations to Congress by March 1, 1998, for improving the operation of the Contingency Fund for State Welfare Programs.

**Effective Date:** The provisions of this new law became effective on November 19, 1997, except for the provisions dealing with termination of parental rights, disrupted adoptions, and the definition of nonfederal funds under family preservation. States have until the close of the next regular session of the state legislature to pass any state laws to comply with the new state plan requirements imposed by this law.

**For more information please contact the public policy department at the Child Welfare League of America at (202)638-2952 or e-mail: [HN4742@handsnet.org](mailto:HN4742@handsnet.org).**

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# ACF

Administration  
for Children  
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Administration on Children, Youth and Families

1. Log No: ACYF-CB-PI-98-07

2. Issuance Date: 04/30/98

3. Originating Office: Children's Bureau

4. Key Words: Adoption, Bonus, Incentive, Baseline, Increment

## PROGRAM INSTRUCTION

**TO:** State Agencies Administering Title IV-E of the Social Security Act

**SUBJECT:** Procedures for Establishing Adoption and Guardianship Baselines to Implement the Presidential Initiative, Adoption 2002 and the Requirements of the Adoption and Safe Families Act of 1997

### LEGAL AND RELATED

#### REFERENCES:

The Adoption and Safe Families Act of 1997 (Public Law 105-89); Sections 473A and 473(a)(1)(B)(ii) of Title IV-E of the Social Security Act; Adoption 2002, A Response to the Presidential Executive Memorandum on Adoption, issued December 14, 1996; and 45 CFR 1355.40. This Program Instruction (PI) supplements Information Memorandum, ACYF-CB-IM-97-05, issued July 7, 1997. (To the extent that there is an inconsistency between ACYF-CB-IM-97-05 and this PI, this issuance supersedes.)

**PURPOSE:** The purpose of this PI is to provide information to the States about adoption incentive payments authorized by the Adoption and Safe Families Act (ASFA), *establishing* adoption and guardianship baseline data, calculating bonuses and setting targets for implementing the President's Adoption Initiative, Adoption 2002.

#### BACKGROUND:

In December 1996, the President introduced the Adoption 2002 initiative. This initiative is a collaborative undertaking between the States and the Federal government to double the number of children adopted or placed for guardianship by the year 2002 as compared to the same such permanent placements made in fiscal year (FY) 1997. The joint effort is meant to engage Federal, State and local governments, child welfare and adoption professionals, community leaders and other interested citizens

***FY 1998 Baseline***--The average number of children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

***FY 1998 Special Needs Baseline***--The average number of title IV-E special needs children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

***FY 1999 - FY 2002 Baselines***--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized adoptions from the State child welfare agency foster care program, beginning with FY 1997.

***FY 1999 - FY 2002 Special Needs Baselines***--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized special needs adoptions from the State child welfare agency title IV-E foster care program, beginning with FY 1997.

***Fiscal Year***--Fiscal year means Federal fiscal year (October 1 through September 30).

***Guardianship***--Guardianship is the judicially created relationship between a 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, custody, and decision-making. For purposes of establishing a baseline and counting completed guardianship arrangements, only those children being released from foster care under the responsibility or supervision of the State should be counted.

***Special Needs Child(ren)***--A special needs child is one whose adoption has been finalized and for whom there is a title IV-E adoption assistance agreement under section 473(a)(1)(B)(ii) of the Social Security Act.

## **ESTABLISHING THE BASELINE AND INCREMENTS:**

### **A. ADOPTION INCENTIVE PROGRAM**

The process for establishing adoption incentive baselines is based on the following principles:

- The law requires that AFCARS be the sole source of data to determine State baselines, except for the initial FY 1998 baseline. For FY 1998, this data may come from other sources and must be derived through consultation between the States and the ACF Regional Office and Central Office staff. Any adoption data source(s) proposed as an alternative to AFCARS for the FY 1998 baseline must be documented to be of equivalent completeness and reliability.
- Separate baselines are to be established for total foster child adoptions and, of these, the number of title IV-E special needs adoptions.
- The FY 1998 baseline data will be the average of the number of finalized adoptions during FYs 1995, 1996 and 1997, as mandated by statute. At the end of FY 1998, that baseline, for practical purposes, will cease to exist.

incentive funds earned in FY 1998 will be paid to the States in FY 1999, as soon as possible after their AFCARS submissions for FY 1998 have been processed and reviewed. This may not occur until the latter part of the fiscal year.

After all of the States have submitted their data, further analysis of the potential incentives to be paid out must also be undertaken by ACF before final payments are issued to ensure that the total amount payable to all States does not exceed the annual amount of incentive funds appropriated by Congress. Pub. L. 105-89 authorizes an annual appropriation of \$20 million for payment in fiscal years 1999-2003. Should the total amount of incentives earned exceed the actual annual appropriation, the final amount of the incentive payable to each State will be a *pro rata* share of the total appropriation based on the percentage of the national incentive earned by that State.

#### Expenditure of Incentive Bonuses

The funds awarded for adoption incentive bonuses must be expended by the end of the fiscal year following the fiscal year in which they are awarded. This means that incentive funds earned in FY 1998 and awarded in FY 1999 must be fully liquidated by September 30, 2000. Information on the procedures for claiming and awarding of the adoption incentive funds as well as for reporting fiscal and program uses of the funds will be provided in a subsequent issuance.

#### B. ADOPTION 2002

The process for establishing adoption and guardianship baselines and increments for the Adoption 2002 initiative is based on the following principles:

- Separate baselines will be established for FY 1997 for: (1) the total number of finalized foster child adoptions, (2) the total number of title IV-E special needs adoptions, and (3) the total number of guardianships.
- AFCARS is the primary source of data to determine the State FY 1997 baselines for the Adoption 2002 initiative. However, if the State has not reported data to AFCARS, or if the State and the Central Office statistical staff or Regional Office staff agree that the reported data are unreliable, the State may propose the use of alternative data sources to determine the baselines. The proposed alternative to AFCARS for the FY 1997 baseline must be documented to be of equivalent completeness and reliability.
- Interim targets will be set for the numbers of finalized adoptions and guardianships during each of the five years after FY 1997. Setting interim numerical targets for adoptions, including title IV-E special needs adoptions and guardianships by the year 2002, is primarily the responsibility of the States. ACF Regional and Central Office staff will provide assistance, as appropriate and requested. (See attached Table 2 and ACYF-CB-IM-97-05.)
- The goal to be reached in FY 2002 is determined by doubling the FY 1997 baseline numbers for finalized adoptions and guardianships.
- Although not relevant for incentive awards, it is necessary to determine the baselines and establish the increments in order to measure the progress toward and the degree of successful achievement of the Adoption 2002 goals.

Table 1 illustrates how the incentive works.

**Adoptions Finalized and Incentive Bonuses Paid for State XYZ for FYs 1998 Through 2002**

| STATE XYZ                                                 | 1995 | 1996 | 1997 | AVG | 1998     | 1999 | 2000     | 2001     | 2002     |
|-----------------------------------------------------------|------|------|------|-----|----------|------|----------|----------|----------|
| 1. Established Baseline                                   |      |      |      |     | 100      | 150  | 150      | 160      | 190      |
| 2. Established Special Needs Baseline                     |      |      |      |     | 50       | 75   | 90       | 100      | 115      |
| 3. Total Number of Adoptions                              | 78   | 106  | 117  | 100 | 150      | 148  | 160      | 190      | 238      |
| 4. Number of Special Needs Adoptions                      | 34   | 56   | 59   | 50  | 75       | 90   | 100      | 115      | 160      |
| 5. Bonus Payment<br>[(L3 - L1) x \$4,000]                 |      |      |      |     | 200,000  | **   | 40,000   | 120,000  | 192,000  |
| 6. Special Needs Bonus Payment *<br>[(L4 - L2) x \$2,000] |      |      |      |     | \$50,000 | **   | \$20,000 | \$30,000 | \$90,000 |
| 7. Total Bonus<br>(Line 5 + Line 6)                       |      |      |      |     | 250,000  | **   | 60,000   | 150,000  | 282,000  |

\*Special needs bonus payments are made only if Line 3 exceeds Line 1, and Line 4 exceeds Line 2.

\*\* No bonus payments are made because the total number of adoptions for fiscal year 1999 did not exceed the baseline for the year.

Please note the following situations reflected in the table:

- Each year's awards are considered on their own.
- Incentives are not paid out until the year after they have been earned.
- In this example, the baselines for the 1998 incentives are 100 and 50. Because the 1997 achievements were 117 and 59, however, no year's established baselines (other than 1998) could fall below 117 and 59 for purposes of earning the incentive funds.

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### LEGAL AND RELATED

**REFERENCES:** The Adoption and Safe Families Act of 1997 (Public Law 105-89); Sections 473A and 473(a)(1)(B)(ii) of Title IV-E of the Social Security Act; Adoption 2002, A Response to the Presidential Executive Memorandum on Adoption, issued December 14, 1996; and 45 CFR 1355.40. This Program Instruction (PI) supplements Information Memorandum, ACYF-CB-IM-97-05, issued July 7, 1997. (To the extent that there is an inconsistency between ACYF-CB-IM-97-05 and this PI, this issuance supersedes.)

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### BACKGROUND:

In December 1996, the President introduced the Adoption 2002 initiative. This initiative is a collaborative undertaking between the States and the Federal government to double the number of children adopted or placed for guardianship by the year 2002 as compared to the same such permanent placements made in fiscal year (FY) 1997. The joint effort is meant to engage Federal, State and local governments, child welfare and adoption professionals, community leaders and other interested citizens

***FY 1998 Baseline***--The average number of children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

***FY 1998 Special Needs Baseline***--The average number of title IV-E special needs children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

***FY 1999 - FY 2002 Baselines***--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized adoptions from the State child welfare agency foster care program, beginning with FY 1997.

***FY 1999 - FY 2002 Special Needs Baselines***--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized special needs adoptions from the State child welfare agency title IV-E foster care program, beginning with FY 1997.

***Fiscal Year***--Fiscal year means Federal fiscal year (October 1 through September 30).

***Guardianship***--Guardianship is the judicially created relationship between a 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, custody, and decision-making. For purposes of establishing a baseline and counting completed guardianship arrangements, only those children being released from foster care under the responsibility or supervision of the State should be counted.

***Special Needs Child(ren)***--A special needs child is one whose adoption has been finalized and for whom there is a title IV-E adoption assistance agreement under section 473(a)(1)(B)(ii) of the Social Security Act.

## **ESTABLISHING THE BASELINE AND INCREMENTS:**

### **A. ADOPTION INCENTIVE PROGRAM**

The process for establishing adoption incentive baselines is based on the following principles:

- The law requires that AFCARS be the sole source of data to determine State baselines, except for the initial FY 1998 baseline. For FY 1998, this data may come from other sources and must be derived through consultation between the States and the ACF Regional Office and Central Office staff. Any adoption data source(s) proposed as an alternative to AFCARS for the FY 1998 baseline must be documented to be of equivalent completeness and reliability.
- Separate baselines are to be established for total foster child adoptions and, of these, the number of title IV-E special needs adoptions.
- The FY 1998 baseline data will be the average of the number of finalized adoptions during FYs 1995, 1996 and 1997, as mandated by statute. At the end of FY 1998, that baseline, for practical purposes, will cease to exist.

incentive funds earned in FY 1998 will be paid to the States in FY 1999, as soon as possible after their AFCARS submissions for FY 1998 have been processed and reviewed. This may not occur until the latter part of the fiscal year.

After all of the States have submitted their data, further analysis of the potential incentives to be paid out must also be undertaken by ACF before final payments are issued to ensure that the total amount payable to all States does not exceed the annual amount of incentive funds appropriated by Congress. Pub. L. 105-89 authorizes an annual appropriation of \$20 million for payment in fiscal years 1999-2003. Should the total amount of incentives earned exceed the actual annual appropriation, the final amount of the incentive payable to each State will be a *pro rata* share of the total appropriation based on the percentage of the national incentive earned by that State.

#### Expenditure of Incentive Bonuses

The funds awarded for adoption incentive bonuses must be expended by the end of the fiscal year following the fiscal year in which they are awarded. This means that incentive funds earned in FY 1998 and awarded in FY 1999 must be fully liquidated by September 30, 2000. Information on the procedures for claiming and awarding of the adoption incentive funds as well as for reporting fiscal and program uses of the funds will be provided in a subsequent issuance.

#### B. ADOPTION 2002

The process for establishing adoption and guardianship baselines and increments for the Adoption 2002 initiative is based on the following principles:

- Separate baselines will be established for FY 1997 for: (1) the total number of finalized foster child adoptions, (2) the total number of title IV-E special needs adoptions, and (3) the total number of guardianships.
- AFCARS is the primary source of data to determine the State FY 1997 baselines for the Adoption 2002 initiative. However, if the State has not reported data to AFCARS, or if the State and the Central Office statistical staff or Regional Office staff agree that the reported data are unreliable, the State may propose the use of alternative data sources to determine the baselines. The proposed alternative to AFCARS for the FY 1997 baseline must be documented to be of equivalent completeness and reliability.
- Interim targets will be set for the numbers of finalized adoptions and guardianships during each of the five years after FY 1997. Setting interim numerical targets for adoptions, including title IV-E special needs adoptions and guardianships by the year 2002, is primarily the responsibility of the States. ACF Regional and Central Office staff will provide assistance, as appropriate and requested. (See attached Table 2 and ACYF-CB-IM-97-05.)
- The goal to be reached in FY 2002 is determined by doubling the FY 1997 baseline numbers for finalized adoptions and guardianships.
- Although not relevant for incentive awards, it is necessary to determine the baselines and establish the increments in order to measure the progress toward and the degree of successful achievement of the Adoption 2002 goals.

Table 1 illustrates how the incentive works.

**Adoptions Finalized and Incentive Bonuses Paid for State XYZ for FYs 1998 Through 2002**

| STATE XYZ                                                 | 1995 | 1996 | 1997 | AVG | 1998     | 1999 | 2000     | 2001     | 2002     |
|-----------------------------------------------------------|------|------|------|-----|----------|------|----------|----------|----------|
| 1. Established Baseline                                   |      |      |      |     | 100      | 150  | 150      | 160      | 190      |
| 2. Established Special Needs Baseline                     |      |      |      |     | 50       | 75   | 90       | 100      | 115      |
| 3. Total Number of Adoptions                              | 78   | 106  | 117  | 100 | 150      | 148  | 160      | 190      | 238      |
| 4. Number of Special Needs Adoptions                      | 34   | 56   | 59   | 50  | 75       | 90   | 100      | 115      | 160      |
| 5. Bonus Payment<br>[(L3 - L1) x \$4,000]                 |      |      |      |     | 200,000  | **   | 40,000   | 120,000  | 192,000  |
| 6. Special Needs Bonus Payment *<br>[(L4 - L2) x \$2,000] |      |      |      |     | \$50,000 | **   | \$20,000 | \$30,000 | \$90,000 |
| 7. Total Bonus<br>[Line 5 + Line 6]                       |      |      |      |     | 250,000  | **   | 60,000   | 150,000  | 282,000  |

\*Special needs bonus payments are made only if Line 3 exceeds Line 1, and Line 4 exceeds Line 2.

\*\* No bonus payments are made because the total number of adoptions for fiscal year 1999 did not exceed the baseline for the year.

Please note the following situations reflected in the table:

- Each year's awards are considered on their own.
- Incentives are not paid out until the year after they have been earned.
- In this example, the baselines for the 1998 incentives are 100 and 50. Because the 1997 achievements were 117 and 59, however, no year's established baselines (other than 1998) could fall below 117 and 59 for purposes of earning the incentive funds.

Ways, Means

**Adoption and Safe Families Act of 1997**  
**November 13, 1997**

**This bill protects children's health and safety, moves children out of foster care faster, increases adoptions, and supports families.**

Reasonable Efforts. The requirement that States make "reasonable efforts" to preserve and reunite families that have maltreated their children is rewritten to ensure that such efforts make the health and safety of children paramount. States are not required to make efforts to keep families together in cases of "aggravated circumstances" (such as abandonment, torture, chronic abuse, and sexual abuse) or murder or assault of another of their children. States are required to make reasonable efforts to place the child for adoption or with a legal guardian in a timely manner.

Termination of Parental Rights (TPR). States must initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months, except in specified circumstances.

Adoption Incentive Payments. \$20 million is authorized for each of 5 years (FY 1999-2003) for bonus payments to states that increase adoptions of foster children above prior levels. Incentive payments equal \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for a total of \$6,000 per special needs adoption.

State Report Cards. The Secretary will annually rate State performance on a number of factors including the number of adoptions and length of stay in foster care.

Reauthorization and Expansion of the Family Preservation Program. This capped entitlement grant program to the States is substantially revised and reauthorized for 3 years. The goals of the program are expanded to include time-limited family reunification and adoption promotion. The 3-year total reauthorization of funding is \$875 million, \$65 million in outlays above the current funding level.

Health Care Coverage for Adopted Children with Special Needs. States are required to provide health insurance coverage for any child with an adoption assistance agreement who has special needs and who the State has determined would not be adopted without medical assistance.

Eligibility for Adoption Assistance in Cases of Dissolved Adoptions. Children with special needs will no longer lose their eligibility for federally subsidized adoption agreements because their adoption dissolves or their adoptive parents die.

Child Welfare Demonstration Projects. HHS is permitted to approve up to 10 additional child welfare and foster care demonstration projects each year and to extend successful demonstration projects.

Adoptions Across Geographic Lines. States may not postpone or deny adoption while looking for an in-state placement when a suitable out-of-state adoption is possible.

Criminal Record Checks. States are required to make criminal records checks for prospective foster or adoptive parents. States could opt out of this provision through written notice from the Governor or through state law.

Technical Assistance to Promote Adoption. \$10 million per year is authorized for 3 years for the Secretary of HHS to provide technical assistance to the states to promote adoption, half of which must be used to help courts facilitate permanent placements.

**Summary of Major Provisions in H.Res. \_\_\_\_\_**  
**Amending H.R. 867, the Adoption and Safe Families Act of 1997**  
**November 13, 1997**

**Title I: Reasonable Efforts and Child Safety Provisions**

*Child Health and Safety Paramount.* In determining and making reasonable efforts on behalf of a child, the legislation specifies that the child's health and safety must be of paramount concern.

*"Reasonable Efforts" to Preserve and Reunify Families.* States continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement does not apply in cases in which a court has found that:

- ▶ a child has been subjected to "aggravated circumstances" as defined in state law (including, but not necessarily limited to, abandonment, torture, chronic abuse, and sexual abuse);
- ▶ a parent has killed another of their children or has assaulted the child or another of their children; or
- ▶ a parent's rights to a sibling have been involuntarily terminated.

In these cases, states would not be required to make reasonable efforts to preserve or reunify the family but are required to hold a permanency hearing within 30 days and to make reasonable efforts to place the child for adoption, with a legal guardian, or other placement specified in the plan.

Reasonable efforts to place a child for adoption or with a legal guardian could be made concurrently with reasonable efforts to preserve or reunify the family.

*Documentation of Efforts to Adopt.* For every child whose permanency plan is adoption or placement in another permanent home, states are required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, a fit and willing relative, a legal guardian, or in another planned living arrangement; and to finalize the adoption or legal guardianship. The documentation must include child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems.

*Termination of Parental Rights.* In the case of (1) a child who has been in foster care for 15 of the most recent 22 months; (2) a child who the court has determined to be an abandoned infant (as defined in state law); or (3) a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states are required to file a petition (or join any existing petition) to terminate parental rights and, concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996.

Adoption incentive payments are \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for a total of \$6,000 per special needs adoption. For these incentive payments, \$20 million is authorized for each of FYs 1999 through 2003, and discretionary budget caps are adjusted to permit this additional spending without using regular appropriation funds. To be eligible to receive adoption incentive payments for FY2001 or FY2002, states are required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the state and the child's adoptive parents.

*Technical Assistance to Promote Adoption.* HHS is authorized to provide technical assistance to states and localities to promote adoption of foster children. The technical assistance can include guidelines for expediting termination of parental rights; encouraged use of concurrent planning; specialized units and expertise in moving children toward adoption; risk assessment tools for early identification of children at risk of harm if returned home; encouraged use of fast tracking for children under age 1 into pre-adoptive placements; and programs to place children into pre-adoptive placements prior to termination of parental rights. \$10 million is authorized for each of fiscal years 1998-2000, with at least half of these funds reserved for providing technical assistance to the courts.

*Eligibility for Adoption Assistance in Cases of Dissolved Adoptions.* Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, continue to be eligible for assistance under Title IV-E in a subsequent adoption. This provision applies only to children whose subsequent adoption occurs on or after October 1, 1997.

*Health Care Coverage for Adopted Children with Special Needs.* States are required to provide health insurance coverage for any child with special needs for whom there is an adoption assistance agreement between the state and the adoptive parents and who the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical, mental health, or rehabilitative care. Such health insurance coverage can be provided through one or more state medical assistance programs (including Medicaid).

*Interjurisdictional Adoption.* States are required to assure that the state will develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption. In addition, states are not eligible for federal Title IV-E payments if the Secretary finds that, after the date of enactment, a state with responsibility for handling the case has denied or delayed the placement of a child for adoption when an approved family was available outside the jurisdiction, or denied an opportunity for a fair hearing

demonstration programs in each of FYs 1998 through 2002 that are likely to promote the objectives of the national foster care and adoption programs. The Secretary must consider applications designed to identify and address barriers resulting in delays in adoptive placements for foster children, identify and address parental substance abuse problems that endanger children and result in foster care placements, and address kinship care. In addition, demonstrations could be approved only for those states providing health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between the state and an adoptive parent or parents. The Secretary in approving demonstrations shall take into consideration the effect of the demonstration on any court orders in the state for violations of federal requirements under Title IV-B or IV-E or the U.S. Constitution.

#### **Title IV: Additional Provisions**

*Reauthorization and Expansion of the Family Preservation Program.* The family preservation and family support program (renamed "Promoting Safe and Stable Families") is reauthorized through FY2001 at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. Existing allocation formula provisions, including a 1% reserve for Indian tribes, remain intact. Set-asides for court improvement grants and for evaluation and research are also reauthorized.

States are required to devote significant portions of their expenditures (after spending no more than 10% of their allotment for administrative costs) to each of the following 4 categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services. Time-limited family reunification services are defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than the 15 month period beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities would be counseling, substance abuse treatment, mental health services, assistance to address domestic violence, temporary child care services, and transportation. Adoption promotion and support services would be defined as pre- and post-adoption services and activities designed to expedite the adoption process and support adoptive families.

State plans are required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern.

*Kinship Care Report.* The Secretary of HHS is required to convene an advisory panel on kinship care, and submit an initial report to the advisory panel on the extent to which foster children are placed with relatives, no later than June 1, 1998. The advisory panel will review the Secretary's initial report and submit comments by October 1, 1998. Based on these comments and other information, the Secretary will submit a final report, by June 1, 1999, to the Committees on Ways and Means and Finance, containing recommendations.

## **Title V: Effective Date**

The provisions of this legislation are effective on the date of enactment, except for provisions dealing with termination of parental rights, disrupted adoptions, and the definition of nonfederal funds under family preservation. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate regular session.

[j/conf/adoption/summary.long](#)

**Legislative History of House-Senate Agreement on Adoption Reform Legislation**  
**November 13, 1997**

**Title I. "Reasonable Efforts" and Child Safety Provisions**

**1. "Reasonable Efforts" to Preserve and Reunify Families**

*House Bill*

As a component of their state Title IV-E plan, states would continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement would not apply in cases in which a court has found that:

- a child has been subjected to "aggravated circumstances" as defined in state law (which may include abandonment, torture, chronic abuse, and sexual abuse);
- a parent has assaulted the child or another of their children or has killed another of their children (as defined in the Child Abuse Prevention and Treatment Act); or
- a parent's rights to a sibling have been involuntarily terminated.

States would not be required to make reasonable efforts on behalf of any parent who has been involved in subjecting children to these circumstances.

Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 3). (Section 2 of the House bill)

*Senate Amendment*

As a component of their state Title IV-E plan, states would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent:

- if a court has determined that the parent has killed or assaulted another of their children; or
- if a court has determined that returning the child home would pose a serious risk to the child's health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or a previous involuntary termination of parental rights to a sibling); or
- if the state has specified in legislation cases in which reasonable efforts would not be required because of serious circumstances that endanger a child's health or safety.

Reasonable efforts to place a child for adoption or with a legal guardian or custodian could be made concurrently with reasonable efforts to preserve or reunify families (see item 3).

Nothing in Title IV-E, as amended by this Act, would be construed as precluding state courts from exercising their discretion to protect the health and safety of children in individual cases when such cases do not include aggravated circumstances as defined by state law. (Section 101 of the Senate amendment)

*House Amendment*

The House Amendment follows the House bill with minor differences in wording, except the agreement:

- clarifies that the state law definition of "aggravated circumstances" may include, but need not be limited to, abandonment, torture, chronic abuse, and sexual abuse;
- adds a rule of construction specifying that nothing in this legislation would be construed as precluding state courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in this provision; and
- establishes new definitions, under Title IV-E, of the terms "legal guardianship" and "legal guardian." (Section 101 of the House Amendment)

## **2. Consideration of Child Health and Safety**

### *House Bill*

In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern. (Section 2)

### *Senate Amendment*

Same as House bill. (Section 101) In addition, the Senate amendment amends current law to include references to child safety in provisions dealing with child welfare services, case plans, and case review procedures. (Section 102)

### *House Amendment*

The House Amendment follows the Senate amendment.

## **3. "Reasonable Efforts" to Place Children for Adoption or Other Permanent Arrangement**

### *House Bill*

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 or are no longer consistent with the child's permanency plan, then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another planned, permanent arrangement. Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, guardianship, or in another planned, permanent arrangement. (Section 2)

### *Senate Amendment*

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (as determined by a court), then a permanency planning hearing must be held for the child within 30 days of the court determination. In such cases, states are required to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the placement. Reasonable efforts to place a child for adoption or with a legal custodian could be made concurrently with reasonable efforts to preserve or reunify the family. (Section 101)

### *House Amendment*

The House Amendment follows the Senate amendment with minor differences in wording. (Section 101)

## **4. Documentation of Efforts to Adopt**

### *House Bill*

For every child whose permanency plan is adoption or another permanent placement, states would be required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, legal guardian, or other permanent home (including the custody of a fit and willing relative); and to finalize the adoption or guardianship. The documentation must cover child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems. (Section 7)

### *Senate Amendment*

Same as House bill, with minor differences in wording. (Section 108)

### *House Amendment*

The House Amendment follows the House bill and Senate amendment. (Section 107)

## **5. Termination of Parental Rights**

### *House Bill*

In the case of a child who is younger than 10 and has been in foster care for 18 of the most recent 24 months, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, unless:

- at the option of the state, the child is being cared for by a relative;

- a state court or agency has documented a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family with services deemed appropriate by the state (in cases in which reasonable efforts to preserve or reunify the family have been required).

This provision would apply only to children who enter foster care on or after October 1, 1997.

(Section 3)

*Senate Amendment*

In the case of a child who has been in foster care for 12 of the most recent 18 months, an infant who is determined by the court to have been abandoned (as defined under state law), or a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

- at the option of the state, the child is being cared for by a relative;
- a state agency has documented to the state court a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family of the child with services deemed necessary by the state for the child's safe return home. (Section 104(a))

A child would be considered as having entered foster care on the earlier of the date of the first judicial hearing after the child's removal from home or 30 days after the child's removal from home.

(Section 104(b))

Nothing in Title IV-E, as amended by this legislation, would preclude state courts or agencies from initiating termination of parental rights for other reasons, or according to earlier timetables than those specified, if such actions are determined to be in the child's best interests. These special cases include those in which the child has experienced multiple foster care placements. (Section 104(c))

For children in foster care on or before the date of enactment, this provision would apply as though the children first entered care on the date of enactment. The effective date of this bill, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item 28). (Section 104(d))

*House Amendment*

The House Amendment follows the House bill and Senate amendment with modifications. With regard to cases taken into state custody after the date of enactment of this legislation, states are required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family for groups of children:

- those who have been in foster care for 15 of the most recent 22 months;
- those who the court has determined to be abandoned infants (as defined in state law); or
- those for whom there has been a court determination that their parent has assaulted the child or killed or assaulted another of their children.

There are three exceptions to the requirement for terminating parental rights in these cases:

- at the option of the state, if the child is being cared for by a relative;
- if a state agency has documented in the case plan, which must 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
- if the state has not provided to the family of the child, consistent with the time period in the case plan, such services as the state deems necessary for the safe return of the child (in cases in which reasonable efforts to reunify the family have been required). (Section 103(a))

For purposes of applying the 15 of 22 month rule to new cases, the clock begins on the date of the first judicial finding that the child has been subjected to child abuse or neglect or 60 days after the child's removal from home. (Section 103(b))

With regard to children who enter foster care after the date of enactment, states would be required to comply with this provision when any such child has been in care for 15 of the most recent 22 months, but no later than 3 months after the end of the first regular session of the state's legislature that begins after the date of enactment. With regard to children who are in foster care on the date of enactment, states would be required to apply the 15 of 22 months rule to one-third of the caseload no later than 6 months after the end of the first legislative session, and would give priority to children with permanency plans of adoption and children who have been in foster care for the greatest length of time. States then would be required to apply the 15 of 22 months rule to two-thirds of the caseload no later than 12 months after the end of the first legislative session. Finally, states must apply the 15 of 22 months rule to all children who are in foster care on the date of enactment within 18 months after the end of the first legislative session that begins after the date of enactment. (Section 103(c))

Nothing in Title IV-E, as amended by this legislation, can be construed as precluding state courts or state agencies from initiating the termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests. These exceptions include cases in which the child has experienced multiple foster care placements. (Section 103(d))

#### **6. Child Death Review Teams**

##### *House Bill*

No provision.

##### *Senate Amendment*

To be eligible for payments under Title IV-E, no later than 2 years after enactment states must certify that they have established and are maintaining a state child death review team (and, if necessary, regional and local teams) to investigate child deaths. Such deaths include those in which there has been a prior report of abuse or neglect or there is reason to suspect that the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency. State, regional, or local teams may be existing citizen review panels, as authorized under CAPTA, or existing foster care review boards.

In addition, HHS would be required to establish a federal child death review team, with representatives from other federal agencies, to investigate deaths on federal lands, provide guidance and technical assistance to states and localities upon request, and make recommendations to prevent child deaths. (Section 103)

##### *House Amendment*

The House Amendment follows the House bill.

#### **7. Criminal Record Checks**

##### *House Bill*

At state option, states could provide, as a component of their Title IV-E plan, procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally approved for a placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children, or crimes involving violence (including rape, sexual or other assault, or homicide), approval could not be granted. In any case of a criminal conviction for a felony or misdemeanor not involving violence, or the existence of a substantiated report of abuse or neglect, final approval could

be granted only after consideration of the nature of the offense, the length of time since it occurred, the individual's life experiences since the offense occurred, and any risk to the child. (Section 17)

*Senate Amendment*

States would be required to provide, as a component of their Title IV-E plan, procedures for federal and state criminal records checks for any prospective foster or adoptive parents and other adults living in their home. Background checks also would be required for employees of residential child care institutions. Parents and institutions must have background checks before being approved for placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual or other physical assault, battery, or homicide), approval could not be granted. In addition, if a state finds that a court of competent jurisdiction has determined that a drug-related offense has occurred within the past 5 years, approval could not be granted. (Section 107(a))

This provision would not be construed to supercede any provision of state law regarding criminal records checks and other background checks for prospective foster and adoptive parents and employees of residential child care institutions, unless such provisions prevent the application of the requirements in this amendment. (Section 107(b))

*House Amendment*

The House Amendment follows the Senate amendment with modifications. States would be required to provide, as a component of their Title IV-E plan, procedures for criminal records checks for any prospective foster or adoptive parents, before the parents are finally approved for placement of a child eligible for federal subsidies under Title IV-E. In any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide), approval could not be granted. In any case of a felony conviction for physical assault, battery, or a drug-related offense, approval could not be granted if the felony was committed within the past 5 years. States could opt out of this provision through a written notification from the Governor to the Secretary, or through state law enacted by the legislature.

**8. Quality Standards for Out-of-home Care**

*House Bill*

No provision.

*Senate Amendment*

As a component of their state Title IV-E plan, states would be required to develop and implement standards to ensure that children in foster care placements in public or private agencies receive quality services that protect the safety and health of children. The standards must be developed by January 1, 1999. (Section 308)

*House Amendment*

The House Amendment follows the Senate amendment. (Section 308)

**Title II. Adoption Promotion Provisions**

**9. Adoption Incentive Payments**

*House Bill*

The Secretary of Health and Human Services (HHS) would be required to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in a base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the number in the base year, plus an additional

\$2,000 for each adoption of a foster child with special needs above the number in the base year (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$15 million would be authorized for each of fiscal years 1999 through 2003. The base year is the previous year with the highest number of adoptions. Relevant budget acts would be amended to require adjustments in discretionary spending limits. (Section 4)

*Senate Amendment*

The Senate amendment is similar to the House bill, except:

- the Secretary would be authorized, rather than required, to make adoption incentive payments;
- to be eligible to receive incentive payments, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents;
- adoption incentive payments would equal \$3,000 for each adoption of a foster child above the base number, and an additional \$3,000 for each adoption of a foster child with special needs (total of \$6,000 for each special needs adoption); and
- the base number of adoptions for determining adoption incentive payments would be the average number of adoptions for the 3 most recent fiscal years. (Section 201)

Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 26).

*House Amendment*

The House Amendment follows the House bill and the Senate amendment. The Secretary of HHS would be required to make adoption incentive payments to eligible states. An eligible state is one in which adoptions of foster children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996. To be eligible to receive adoption incentive payments for FY2001 or FY2002, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, and an additional \$2,000 for each adoption of a foster child with special needs (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$20 million would be authorized to be appropriated for each of FYs 1999 through 2003, and discretionary budget caps would be adjusted to accommodate this additional spending. (Section 201)

**10. Technical Assistance to Promote Adoption**

*House Bill*

HHS would be authorized to provide technical assistance to states and localities to promote adoption for foster children, including:

- guidelines for expediting termination of parental rights;
- encouraged use of concurrent planning;
- specialized units and expertise in moving children toward adoption;
- risk assessment tools for early identification of children who would be at risk of harm if returned home;
- encouraged use of fast tracking for children under age 1 into pre-adoptive placements; and
- programs to place children into pre-adoptive placements prior to termination of parental rights.

For technical assistance, \$10 million would be authorized for each of fiscal years 1998-2000. (Section 12)

*Senate Amendment*

HHS would be required to provide technical assistance, upon request, to help states and localities reach their targets for increased numbers of adoptions. No authorization of appropriations would be included. (Section 201)

*House Amendment*

The House Amendment follows the House bill, except HHS would be required to use half of funds appropriated for technical assistance to the courts. (Section 201)

**11. Eligibility for Adoption Assistance in Cases of Dissolved Adoptions**

*House Bill*

No provision.

*Senate Amendment*

Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, would continue to be eligible for federally subsidized adoption assistance under Title IV-E in a subsequent adoption. (Section 307(a)) This provision would only apply to children who become available for adoption due to the dissolution of their previous adoption or the death of their adoptive parents, and whose subsequent adoption occurs on or after October 1, 1997. (Section 307(b))

*House Amendment*

The House Amendment follows the Senate bill with minor differences in wording. (Section 307)

**12. Health Care Coverage for Special Needs Adopted Children**

*House Bill*

No provision.

*Senate Amendment*

As a component of their state Title IV-E plans, states would be required to provide health insurance coverage for any child determined to be a child with special needs, for whom there is an adoption assistance agreement between the state and the adoptive parents, and who the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical or rehabilitative care. In addition:

- such health insurance coverage could be provided through one or more state medical assistance program;
- the state would ensure that medical benefits, including mental health benefits, would be of the same type and kind as those provided for children by the state under Medicaid;
- if the state provides such health insurance coverage through a program other than Medicaid, and the state exceeds its funding for services under such program, then any such child would be deemed to be Title IV-E-eligible for purposes of Medicaid; and
- in determining cost-sharing requirements, the state would be required to take into consideration the circumstances of the adoptive parents and the needs of the child. (Section 306)

*House Amendment*

The House Amendment generally follows the Senate amendment. The agreement makes clear that the state may choose to comply with this provision by covering the child under Medicaid. (Section 306)

**13. Interjurisdictional Adoption**

*House Bill*

No provision.

*Senate Amendment*

As a component of their state Title IV-E plan, states would be required to provide that neither the state nor any other entity in the state that receives federal funds and is involved in adoption would delay or deny the adoptive placement of a child on the basis of the geographic residence of the adoptive parent or child. (Section 202(a))

In addition, the Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of appointment, including recommendations for improvements in interjurisdictional adoptions. The Secretary would forward the report to Congress and, if appropriate, make recommendations for legislation. (Section 202(b))

#### *House Amendment*

The House Amendment generally follows the Senate amendment. As a component of their Title IV-E state plan, states would be required to assure that the state would develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for waiting children. In addition, states would not be eligible for any Title IV-E payment if the Secretary found that, after the date of enactment, a state had denied or delayed the placement of a child when an approved family was available outside the jurisdiction with responsibility for handling the case of the child, or denied to grant an opportunity for a fair hearing to an individual whose allegation of a violation of this provision was denied by the state or not acted upon with reasonable promptness. (Sections 202(a) and (b)) It is the intention of Congress that the best interests of children remain the critical consideration in adoptive placement decisions. Congress does not intend to interfere with the ability of the Interstate Compact on the Placement of Children to ensure safe and appropriate adoptive placements.

The General Accounting Office (rather than HHS through an advisory panel) would be required to study and report to Congress on interjurisdictional adoption issues. (Section 202(b))

### **Title III. System Accountability and Improvement Provisions**

#### **14. Permanency Hearings**

##### *House Bill*

States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of the current 18, and the name of the proceeding would be changed to "permanency" hearing. The hearing's purpose would be to determine the child's permanency plan, which could include:

- returning home;
- referral for adoption and termination of parental rights;
- guardianship; or
- another planned, permanent arrangement, which could include the custody of a fit and willing relative. (Section 5)

##### *Senate Amendment*

States would be required to hold a first dispositional hearing within 12 months of the date the child is considered to have entered foster care, defined as the earlier of the date of the first judicial hearing after the child's removal or 30 days after the removal. The hearing would be renamed "permanency planning" hearing, and its purpose would be to determine the child's permanency plan, which could include:

- returning home;
- being placed for adoption and the state would file a petition to terminate parental rights;
- being referred for legal guardianship; or

- in cases in which the state agency has documented to the state court a compelling reason why it would not be in the child's best interest to return home, being referred for termination of parental rights, being placed for adoption with a qualified relative or a legal guardian, or being placed in another planned, permanent living arrangement. (Section 302)

#### *House Amendment*

The House Amendment follows the Senate amendment, except the name of the proceeding is changed to a "permanency" hearing rather than a "permanency planning" hearing. (Section 302)

### **15. Participation in Case Reviews and Hearings**

#### *House Bill*

Foster parents and relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision, however, must not be construed to make any foster parent a party to such a review or hearing. (Section 6)

#### *Senate Amendment*

Same as the House bill, except the Senate amendment:

- would also apply to any pre-adoptive parent or any other individual who has provided substitute care for the child; and
- would make explicit that relative caretakers, pre-adoptive parents, and other individuals who have cared for the child, in addition to foster parents, would not be considered parties to reviews or hearings solely on the basis of receiving notice. (Section 105)

#### *House Amendment*

The House Amendment follows the House bill and Senate amendment, with minor modifications. Foster parents and preadoptive parents or relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision must not be construed to make any foster parent, preadoptive parent or relative a party to such a review or hearing solely on the basis of receiving notice. (Section 104)

### **16. Performance Measures for State Child Welfare Programs**

#### *House Bill*

The Secretary of HHS, in conjunction with the American Public Welfare Association, the National Governors' Association, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance; the report would contain recommendations for improving state performance. The first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions. To the maximum extent possible, the report would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 10)

#### *Senate Amendment*

The Secretary of HHS would be required to issue an annual report containing ratings of state performance in protecting children. The first report would be due on May 1, 1999. In developing the performance measures, the Secretary would be required to consult with the American Public Welfare Association, the National Governors' Association, the National Conference of State Legislatures, and child welfare advocates. The measures would track state performance over time in the following categories:

- number of placements for adoption and for foster care, and whether such placements were with a relative or a guardian;
- number of children who "age out" of foster care without having been adopted or placed with a guardian;

- length of stay in foster care;
- length of time between a child's availability for adoption and actual adoption;
- number of deaths and substantiated cases of child abuse or neglect in foster care; and
- specific steps taken by the state to facilitate permanence for children. (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. The report would be due no later than 6 months after enactment. (Section 203(b)) Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS) to the extent the information is available through AFCARS (see item 26).

#### *House Amendment*

The House Amendment follows the House bill and the Senate amendment, with modifications. The Secretary of HHS, in conjunction with Governors, state legislatures, state and local public officials responsible for administering child welfare programs, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. No later than 6 months after enactment, the Secretary would submit a progress report on the feasibility, timetable, and consultation process for conducting a study, with a final report due within 15 months of enactment. The report may include other recommendations for restructuring the program and for making payments to states under Titles IV-B and IV-E. (Section 203(b))

### **17. Child Welfare Demonstrations**

#### *House Bill*

The number of child welfare demonstrations would be increased from 10 to 15. At least one of the additional demonstrations would have to address the issue of kinship care. (Section 11)

#### *Senate Amendment*

The current law limitation on the number of demonstrations that HHS could approve would be eliminated. Demonstrations would have to be designed to achieve one or more of the following goals:

- reducing a backlog of children in long-term foster care or awaiting adoptive placement;
- ensuring an adoptive placement for a child no later than 1 year after the child enters foster care;
- identifying and addressing barriers that result in delays to adoptive placements for children in foster care;
- identifying and addressing parental substance abuse problems that endanger children and result in foster care placement, including placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification;
- overcoming barriers to the adoption of children with special needs resulting from a lack of health insurance coverage for such children; and

- any other goal that the Secretary has already approved on the date of enactment, or, after the date of enactment, specifies by regulation.

In considering applications for waivers from states in which there has been a court order determining a state's failure to comply with provisions of Titles IV-B or IV-E or the Constitution, the Secretary would be required to consider the effect of the waiver on the terms and conditions of the court order. (Section 301(a)) This provision would not be construed to affect the terms and conditions of any demonstrations that had been approved as of the date of enactment. (Section 301(b))

#### *House Amendment*

The House Amendment follows the House bill and the Senate amendment, with modifications. The Secretary would be authorized to conduct demonstrations that the Secretary finds are likely to promote the objectives of Title IV-B or IV-E. The Secretary would be authorized to approve no more than 10 such demonstrations in each of FYs 1998 through 2002. If appropriate applications were submitted, the Secretary would be required to consider applications designed to identify and address barriers that result in delays to adoptive placements for foster children; identify and address parental substance abuse problems that endanger children and result in their placement in foster care, including through placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification; and to address kinship care. In addition, waivers could be approved only for those states which provide health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between a state and an adoptive parent or parents. The Secretary may waive the current law requirement that demonstrations end after 5 years. In approving demonstrations, the Secretary shall consider the effect of the demonstration on any court orders in the state for violations of federal requirements under Titles IV-B or IV-E or the U.S. Constitution. (Section 301)

### **Title IV. Additional Provisions**

#### **18. Reauthorization and Expansion of the Family Preservation Program**

##### *House Bill*

No provision.

##### *Senate Amendment*

The family preservation and family support program under Title IV-B, Subpart 2, would be reauthorized through FY2001, at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. As under current law, these are capped entitlement funding levels. Existing allocation formula provisions, including a 1 percent reserve for Indian tribes, would remain intact. Set-asides for court improvement grants and for evaluation and research would also be reauthorized. (Section 305(a))

States would be required to devote significant portions of their expenditures, after spending no more than 10 percent of their allotment for administrative costs, to each of the following four categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services.

Time-limited family reunification services would be defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than 15 months beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities include counseling, substance abuse treatment, mental health services, assistance to address domestic violence, and transportation. Adoption promotion and support services would be defined as services and activities

designed to encourage more adoptions out of the foster care system when adoptions promote the best interests of children.

Subpart 2 of Title IV-B would be renamed "Promoting Adoptive, Safe, and Stable Families." (Section 305(b)) State plans under Subpart 2 would be required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern. Additional references to child safety would be added to the statute. (Section 305(c)) Maintenance of effort provisions in current law would be clarified to define nonfederal funds as meaning state funds, or at the option of the state, state and local funds. This provision would take effect as if included in the Omnibus Budget Reconciliation Act of 1993. (Section 305(d))

*House Amendment*

The House Amendment follows the Senate amendment, except specific examples of adoption promotion and support services would be deleted and time-limited family reunification services are limited to 15 months from the date the child enters foster care. The program would be renamed "Promoting Safe and Stable Families." (Section 305)

**19. Report on Substance Abuse and Child Protection**

*House Bill*

The Secretary of HHS would be required to submit a report to the Committees on Ways and Means and Finance on the problem of substance abuse in the child welfare population, services provided to parents who abuse substances, and the outcomes of such services. This report would be based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation. (Section 13)

*Senate Amendment*

No provision.

*House Amendment*

The House Amendment follows the House bill. (Section 405)

**20. Kinship Care Report**

*House Bill*

The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the Secretary would submit an initial report to the advisory panel on the extent to which foster children are placed with relatives. The advisory panel would review the Secretary's initial report and submit comments by July 1, 1998. Based on these comments and other information, the Secretary would submit a final report, by November 1, 1998, to the Committees on Ways and Means and Finance, containing recommendations. (Section 8)

*Senate Amendment*

Same as the House bill with slight differences in data to be collected. (Section 303)

*House Amendment*

The House Amendment follows the Senate amendment, except the dates are changed so that the Secretary would be required to convene the advisory panel and submit an initial report to the advisory panel no later than June 1, 1998. The advisory panel would submit comments to the Secretary no later than October 1, 1998, and the Secretary would report to Congress no later than June 1, 1999. (Section 303)

**21. Federal Parent Locator Service**

*House Bill*

Child welfare agencies would be authorized to use the Federal Parent Locator Service to assist in locating absent parents. (Section 9)

*Senate Amendment*

Same as the House bill with minor differences in wording. (Section 106)

*House Amendment*

The House Amendment follows the Senate amendment. (Section 105)

**22. Eligibility for Independent Living Services**

*House Bill*

The primary target population for independent living services would be revised to include children who are no longer eligible for foster care subsidies under Title IV-E because they have accumulated assets of up to \$5,000. (Section 14)

*Senate Amendment*

Same as the House bill. (Section 304)

*House Amendment*

The House Amendment follows the House bill and the Senate amendment.

**23. Standby Guardianship**

*House Bill*

It would be the sense of Congress that states should have laws and procedures that would permit a parent who is chronically ill or near death to designate a standby guardian for their minor child without surrendering their own parental rights. The standby guardian's authority would take effect upon the parent's death, the onset of mental incapacity of the parent, or the physical debilitation and consent of the parent. (Section 18)

*Senate Amendment*

Same as House bill. (Section 403)

*House Amendment*

The House Amendment follows the House bill and the Senate amendment.

**24. Purchase of American-made Equipment**

*House Bill*

It would be the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption Promotion Act should be American-made. (Section 16)

*Senate Amendment*

No provision.

*House Amendment*

The House Amendment follows the House bill with a change to reflect the name of the bill. (Section 406)

**25. Preservation of Reasonable Parenting**

*House Bill*

No provision.

*Senate Amendment*

Specifies that nothing in this legislation is intended to disrupt the family unnecessarily or intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. (Section 401)

*House Amendment*

The House Amendment follows the Senate amendment. (Section 401)

**26. Use of Data from the Adoption and Foster Care Analysis and Reporting System (AFCARS)**

*House Bill*

No provision.

*Senate Amendment*

Any information required to be reported by this legislation would be supplied through AFCARS to the extent such information is available in AFCARS. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by this legislation. (Section 402)

*House Amendment*

The House Amendment follows the Senate amendment. (Section 402)

**27. Temporary Reduction in Contingency Fund**

*House Bill*

No provision.

*Senate Amendment*

The federal matching rate under Medicaid for state expenditures related to skilled professional medical personnel would be reduced to 73%. (Section 405)

*House Amendment*

Neither the House bill nor the Senate amendment was followed. Rather, the \$2 billion federal Contingency Fund for the Temporary Assistance for Needy Families (TANF) program, created by the 1996 welfare reform law (P.L. 104-193), would be reduced by a total of \$40 million in outlays over the period 1998-2002. (Section 404)

**Title V. Effective Dates**

**28. Effective Dates**

*House Bill*

October 1, 1997. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until the first day of the calendar quarter beginning after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate session. (Section 15)

*Senate Amendment*

Same as House bill, except for provisions dealing with termination of parental rights (see item 5), disrupted adoptions (see item 11), and the definition of nonfederal funds under family preservation (see item 18). (Section 501)

*House Amendment*

The House Amendment follows the House bill and Senate amendment, with a modification to change October 1, 1997, to the date of enactment. (Section 501)

# Clinton Seeks Doubling Of Adoptions

## HHS Ordered to Find Foster Care Solutions

AI

By Al Kamen  
Washington Post Staff Writer

President Clinton yesterday ordered administration officials to find ways to double by 2002 the number of children adopted from foster homes in hopes of reducing the time that children languish in that system.

Clinton's call for changes in the process comes as Congress is working on overhauling legislation of adoption policies that promise to be one of the major social policy debates in the next session.

"I can think of no better way to fulfill the promise of this season than to bring a child to a family and a family to a child," Clinton said in his weekly radio address from the Oval Office.

There are more than 450,000 children in the nation's foster care system, Clinton said, placed there because of abuse, neglect or other reasons. Most eventually return to their homes, he said, but nearly 100,000 do not. "Those children wait far too long, typically three years or more, to find permanent homes," he said.

Clinton said his goal was to make adoption easier and "to make moving children out of foster care easier," in order to increase adoptions of foster children each year from 27,000 to 54,000.

As a first step, Clinton ordered Health and Human Services Secretary Donna E. Shalala to report back to him in 60 days on what new measures, including financial incentives to the states, will be needed to meet the administration's new goal.

The recommendations coincide with draft legislation circulating in Congress that aims to accelerate the adoption process. Among its sponsors are Sens. Mike DeWine (R-Ohio) and John D. "Jay" Rockefeller IV (D-W.Va.) and Reps. Dave Camp (R-Mich.) and Barbara B. Kennelly (D-Conn.).

Some of the areas likely to be addressed in the legislation and in Shalala's report include:

- Making it far easier for states to remove children from families where the child has been tortured, subject to severe physical or sexual abuse or where a sibling has died from abuse or neglect.

- Requiring states to evaluate the

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status of children in foster homes earlier and more frequently so that they will not languish there for unnecessarily long periods.

- Providing financial bonuses to states that move children out of long-term foster care and into permanent, adoptive families. The money most likely will come from reducing the federal assistance available for foster care after a certain period of time. HHS officials expect any new financial incentive would pay for itself, because increasing adoptions would reduce foster care costs, which are about \$15,000 a year per child.

The current adoption law, passed in 1980, requires states to pursue "reasonable efforts" to keep families together to qualify for federal money for foster care.

"Reasonable efforts" have been broadly interpreted by the courts, and some members of Congress feel that too often little emphasis is put on "reasonable."

Despite the bipartisan support for change, adoption legislation is may be controversial because of concerns by the "parental rights" movement that the states will too quickly put a child up for adoption without consideration of the biological parents' rights. States may also object to proposed penalties for failing to move children out of foster care fast enough, according to social policy specialists who have followed the issue.

In his Oval Office address yesterday, attended by first lady Hillary Rodham Clinton, Shalala, several adoptive parents and their children as well as and four children waiting to be adopted, Clinton said that he was "proud" to sign a \$5,000 tax credit to help families adopt and to ban racial preferences in adoption. That measure passed Congress earlier this year.

There had been some speculation, fueled by a comment by Hillary Clinton in a Time magazine interview last May, that the Clintons were considering adopting a child.

The White House yesterday said the Clintons had decided against adopting a child while they are in the White House because they would not be able to give the child enough attention.

A spokesman said Clinton, in several pre-Christmas interviews not yet made public, "didn't rule it out for later in life but he basically said it wouldn't work here in the White House," Reuter reported.

Hillary Clinton ignored a question yesterday about their adopting a child.

Staff writer Judith Havemann contributed to this report.

The Washington Post

SUNDAY, DECEMBER 15, 1996

# President Tells Government To Promote More Adoptions

By ALISON MITCHELL

WASHINGTON, Dec. 14 — President Clinton today directed the Federal Government to take steps to double the number of children moved from foster care to adoption over the next six years.

He announced the initiative in his weekly radio address, and was joined on the air by his wife, Hillary, by adoptive families and by children hoping for a permanent home.

"I can think of no better way to fulfill the promise of this season than to bring a child into a family, and a family to a child," Mr. Clinton said.

This drive to increase adoption continues the family-centered themes that he promoted throughout his election campaign, and it is not likely to be contentious. House Republicans made an adoption tax-credit a plank in their Contract With America campaign agenda in 1994. Earlier this year, Mr. Clinton signed Republican-initiated legislation that gave a tax credit of \$5,000 to families adopting children and made it easier for parents to adopt children of a different race.

There are now 450,000 children in the nation's foster-care system, which is run by the states with Federal aid and supervision. Of those children, 100,000 are considered to have no parent to return to and are ready to be placed in a permanent new home. But only 27,000 of those children a year are moved from foster care to adoption, officials say.

Mr. Clinton today told the Department of Health and Human Services to report to him in 60 days on steps that can be taken to insure that 54,000 foster children a year are adopted by the year 2002. He said the department should consider possible changes in Federal laws and regulations.

Officials said that among steps the department is examining, the Federal Government would work with states to set specific targets for adoptions. In return, the Government would provide a new financial incentive per child for states to increase the number of adoptions from the public welfare system.

The officials said that as part of his budget proposal in February, Mr. Clinton would propose financial assistance to states for developing strategies to promote the adoption of difficult-to-place children who have been languishing in the foster care system and for studying what barriers block states from finding permanent homes for children.

Melissa T. Skolfield, a spokeswoman for the Department of Health and Human Services, said the amount of financial assistance that would be proposed for the states had not yet been determined. And although she said the financial incentive to states for each child adopted had not yet been settled on, the action was not expected to require new Federal funds because increased adoptions would reduce foster care spending.

Mr. Clinton today also called for a Government-wide public relations campaign to make Americans aware of adoption opportunities. As if beginning that campaign themselves, the Clintons asked the parents and children accompanying them to tell their

*A goal is set for doubling the number of children moved from foster care.*

stories on the air.

"My name is Daniel," said one 13-year old boy from a local foster care program, who was not further identified because he is a minor. "And I've been waiting for a family for a long time. And hopefully in a short amount of time I will probably get what I'm looking for in a family. My brother has already been adopted, and hopefully I'll get adopted by his family at one point of time."

Mrs. Clinton has been a strong proponent of adoption, even telling Time magazine earlier this year that she and her husband might consider an adoption because they would love to have another child. White House officials said the Clintons had decided to postpone any decision on an adoption until after the President is out of office because he would not have the time to devote to a new child.

DO NOT FORGET THE NEEDIEST

The New York Times

Sunday, December 15, 1996

# Clinton vows to speed children into adoption

By Joyce Price  
THE WASHINGTON TIMES

President Clinton yesterday pledged to double the number of children moved from foster care to permanent adoptive homes in the next five years, but ruled out adopting a child of his own until after he leaves the White House.

"No child should be trapped in the limbo of foster care, particularly when there are families with open arms waiting," the president said in his weekly radio address.

Mr. Clinton said there are more than 450,000 children in the nation's foster care system. About 100,000 of them will wait years to be placed.

"Those children wait far too long, typically three years or more, to find permanent homes and families to love them," Mr. Clinton said.

In hopes of reducing the waiting period, the president said he had "just signed a presidential directive with a clear goal" of "doubling the number of children we move from foster care to permanent homes — from 27,000 a year today, to 54,000 a year by the year 2002.

"This is a season of miracles, and perhaps there is no greater miracle than finding a loving home for a child who needs one."

The directive orders Health and Human Services Secretary Donna

E. Shalala to report back in 60 days on how best to promote and increase adoptions, including "what sensible financial incentives we can provide states to raise adoption rates," Mr. Clinton said.

As for his plans, Mr. Clinton said through his staff that his duties as president would not permit him to adopt, at least not now.

During the presidential campaign, first lady Hillary Rodham Clinton told Time magazine she and her husband had discussed the possibility of adopting. They now have one daughter, Chelsea, 16.

But Assistant White House Press Secretary Barry Toiv told reporters the Clintons won't be adopting any time soon, because they believe "they would not be able to devote the time and attention a baby would need."

In an interview with Reuters news agency, Mr. Toiv cited a number of pre-Christmas presidential interviews, not yet published or aired, in which Mr. Clinton said he "didn't rule out" adoption "later in life" but that he felt "it wouldn't work here in the White House."

Mrs. Clinton ignored a question about the possibility of adoption at the radio address event yesterday, according to published reports. But she chatted with many of the guests on the air, asking them how they came to find their new families and homes.

## The Washington Times

SUNDAY, DECEMBER 15, 1996

# Clinton Backs Tax Credit For Adoption

## GOP Bill Is Endorsed; Interracial Placements Could Be Expedited

By Barbara Vobejda  
Washington Post Staff Writer

**A1**

In a letter he will send to House Republican leaders today, President Clinton will endorse Republican legislation that would allow most adoptive families to claim a \$5,000 tax credit and penalize states whose adoption agencies delay placement of a child to find a family of the same race, White House sources said yesterday.

The president will embrace provisions that have traditionally been in the Republican domain. The adoption tax credit was part of the House GOP's "Contract With America," and Republicans have been most vocal in opposing racial matching in adoption placements.

"Promoting adoption is one of the most important things we can do to strengthen American families and give more children what every child in America deserves—loving parents and a healthy home," the president says in his letter, a copy of which was obtained by The Washington Post.

It will be the second time in three days that the president has gotten involved in measures affecting families, a topic likely to play a major role in this year's presidential election. And both times, the president staked out positions likely to alienate some liberals.

On Saturday, he announced he would require states to end welfare payments to teenage parents who refuse to stay in school or to live with a parent or guardian.

In endorsing the adoption bill, Clinton said he "strongly supported" the tax credit—which would be \$5,000 for families earning up to \$75,000 a year. The size of the credit would gradually decline for families earning between \$75,000 and \$115,000; families earning more than \$115,000 would not be eligible for a credit.

Also, he goes further than he has in the past to interject himself directly into the emotional and divisive issue of interracial adoption.

The bill, slated to go to the House floor this week, would prohibit states or adoption agencies from discriminating on the basis of race

See ADOPT, A5, Col. 1

### ADOPT, From A1

against families who want to adopt. Agencies could consider race in placing a child if there are two or more qualified families, but may not delay placement while waiting for a parent of the same race.

That language, Clinton says in his letter, is consistent with "my long-standing goal to end the historical bias against interracial adoptions, which too often has meant interminable waits for children to be matched with parents of the same race."

Republicans said they welcome the endorsement, but pointed out that the president had vetoed a welfare bill last year that contained similar language on interracial adoptions.

"We're happy to have it," Rep. Susan Molinari (R-N.Y.) said of the endorsement. "I know he had tentative problems with trans-racial adoptions in the past. . . . I hope this signals to Democrats to join with us."

More than 400,000 children are in the foster care system, about half of whom are minorities. Minority children wait longer to be adopted than do white children, according to studies.

Among children in foster care, only about 21,000 are legally available for adoption, according to the Department of Health and Human Services. And of those, two out of three have "special needs," including emotional or physical disabilities or the need to be placed as part of a sibling group.

Many Republicans and some Democrats, including former senator Howard M. Metzenbaum (D-Ohio), have contended that the policy of race matching has kept thousands of African American children languishing in foster care for years. But social workers say that the high number in foster care stems from the difficulty in placing children with special needs.

Legislation was adopted in 1994 with the intention of banning race matching, but Metzenbaum and others were dissatisfied with Clinton administration regulations interpreting the law because they allowed agencies to consider race. Administration

officials say the law has been aggressively enforced, reducing the number of states that give an automatic preference to black families in the adoption of black children.

Still, Republicans have pushed for a new law that would ban racial placement outright, essentially establishing a colorblind system that would match children and families without regard to race.

While that was the original language in the bill when it went before

the Ways and Means Committee, it was amended to allow race to be considered when there is more than one qualified family seeking to adopt a child. The bill, which was approved by the committee on a voice vote, would also go further than current law to penalize states that do not comply.

Rep. Charles B. Rangel (D-N.Y.), who has argued vociferously against a "first-come, first-served" approach, said the new language does not change the current law. "The only reason the president's doing all of this is . . . because he wants to make it clear he's not opposed to interracial adoption. . . . But if he feels good saying it, okay."

David Liederman, executive director of the Child Welfare League of America, called the tax credit a "misdirection" of resources in a tight fiscal climate, essentially helping middle-class families while other proposals would cut funding for programs meant to help those willing to adopt special-needs children.

"I would have hoped the president would have spoken to that," Liederman said.

It is estimated the credit would cost the government \$1.7 billion over seven years, and the GOP bill would offset the revenue loss with income gained in enforcing new anti-fraud provisions on foreign trusts and from repeal of a tax exclusion for businesses purchasing energy conservation measures.

THE WASHINGTON POST  
MONDAY, MAY 6, 1996

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— Rep. Charles B. Rangel (D-N.Y.)

## Text of Presidential Directive on Adoption

WASHINGTON, Dec. 14 /U.S. Newswire/ -- Following is a memorandum from President Clinton to the Secretary of Health and Human Services, Secretary of the Treasury, Secretary of Labor, Secretary of Commerce and the director of the Office of Personnel Management:

During this Holiday Season, as we reflect on the importance of family in our own lives, let us remember the tens of thousands of our Nation's children in the public child welfare system who live without permanent and caring families. Foster care provides temporary shelter and relief for children who have been abused or neglected.

I am committed to giving the children waiting in our Nation's foster care system what every child in America deserves -- loving parents and a healthy, stable home. The goal for every child in our Nation's public welfare system is permanency in a safe and stable home, whether it be returning home, adoption, legal guardianship, or another permanent placement. While the great majority of children in foster care will return home, for about one in five, returning home is not an option, and they will need another home, one that is caring and safe. These children wait far too long -- typically over 3 years, but for many children much longer -- to be placed in permanent homes. Each year, State child welfare agencies secure homes for less than one-third of the children whose goal is adoption or an alternate permanent placement. I know we can do better.

I believe we should increase the number of children who are adopted or permanently placed from the public foster care system each year toward the goal of at least doubling that number by the year 2002. Returning home is not an option for about 100,000 of the over 450,000 children in the Nation's foster care system, yet only approximately 20,000 were adopted last year and approximately 7,000 were permanently placed in legal guardianships. While the number of adoptions each year has been constant for many years, I believe that by working with States to identify and break down barriers to permanent placements, setting annual numerical targets, rewarding successful performance, and raising public awareness, we can meet the target of at least 54,000 children adopted or permanently placed from the public foster care system by the year 2002.

Today, therefore, I direct the Secretary of Health and Human Services, in consultation with State and civic leaders, to report to me within 60 days on actions to be taken to move children more rapidly from foster care to permanent homes and at least to double, by the year 2002, the number of children in foster care who are adopted or permanently placed out of the public foster care system.

I. To increase the number of children who are adopted or permanently placed each year, this report should include, but should not necessarily be limited to, recommendations in the following areas:

(a) Plans to work with States on setting and reaching State specific numerical targets, using the technical assistance of the Department of Health and Human Services National Resource Centers to make information on best practices available to States and to engage community leaders, parents, and the business and faith communities;

(b) Proposals to provide per child financial incentives to States for increases in the number of adoptions from the public welfare system. Options considered should have little to no net costs, as increases in the number of adoptions from the public system will reduce foster care costs, thereby offsetting much if not all of the incentive payments;

(c) A proposal to ensure continued aggressive implementation of the Multi-ethnic Placement Act, as amended by the Inter-ethnic Adoption Provision of the Small Business Job Protection Act;

(d) Plans to compile and publish an annual State-by-State report on success in meeting the numerical targets; and

(e) Plans to recognize successful States.

II. To move children more rapidly from foster care to permanent homes, the report shall also recommend changes to Federal law and regulations and other actions needed to emphasize the importance of planning for permanency as soon as a child enters the foster care system. The Secretary's report should include, but should not necessarily be limited to, recommendations in the following areas:

(a) Plans to provide States with funding to identify barriers to permanency and to develop targeted strategies to find permanent homes for children who have been in foster care a particularly long time;

(b) Proposals to shorten the period of time between a child's placement in foster care and his or her initial hearing at which a permanency determination is made;

(c) A proposal to clarify that the purpose of 'dispositional hearings' is to plan for permanency and, as appropriate, to consider referrals for family mediation, termination of parental rights, adoption, legal guardianship, or other permanent placements;

(d) A proposal to clarify the "reasonable efforts" requirement and other Federal policy as it relates to permanency and safety;

(e) Plans to ensure that States give appropriate weight to permanency planning by establishing standards for securing permanency through adoption or guardianship, once a decision has been made that a child cannot be returned home; and

(f) Plans to examine alternative permanency arrangements, such as guardianship, when adoption is not possible.

Last month, I signed a proclamation designating November as National Adoption Month -- a time to increase awareness about the tens of thousands of children waiting for families and to encourage all Americans to consider the rewards and responsibilities of adoption. However, adoption must be a national concern throughout the year. Therefore, I direct:

(a) The Secretary of Health and Human Services to develop and lead a public awareness effort, including use of public service announcements, print materials, and the Internet;

(b) The Secretaries of Health and Human Services and the Treasury in consultation with State, civic, and private sector leaders to develop and disseminate information about the new adoption tax credits and other adoption benefits;

(c) The Secretaries of Labor and Commerce, in consultation with State and civic leaders, to identify and recognize companies in the private sector with model policies to encourage and ease adoption among employees; and

(d) The Director of the Office of Personnel Management to direct all Federal agencies to provide information and support to Federal employees who are prospective adoptive parents.

WILLIAM J. CLINTON

Presidential Directive  
& Radio Address  
Issuing Directive  
& Clips, FYI

The White House  
Office of the Press Secretary

For Immediate Release

December 14, 1996

Radio Address By The President

The Oval Office

10:06 A.M. EST

Good morning. Today we're taking important new steps to make adoption easier and to move children out of foster care faster. These efforts will help to give even more children what every child needs and deserves, loving parents, and a strong and stable home.

I'm delighted to be joined in the Oval Office today by a remarkable group of children and parents who know firsthand the tremendous possibilities of adoption; and by the First Lady who has worked so long and hard on this issue and whose efforts have made today possible.

I'm especially pleased to be able to take this action now, in this season of hope and light. The holidays we celebrate this month teach us that through faith and love we can truly repair the world. I can think of no better way to fulfill the promise of this season than to bring a child into a family and a family to a child.

There are more than 450,000 children in the nation's foster care system. They are placed there because of abuse, neglect or a home life that is neither safe, nor secure. While most of these children eventually return to their original homes, nearly 100,000 of them simply don't have that option. Those children wait far too long, typically three years or more, to find permanent homes and families to love them.

Promoting adoption has been at the heart of our administration's efforts to protect our children and strengthen our families. Earlier this year I was proud to sign a \$5,000 tax credit to help families adopt children. We put an end to racial preferences for adoption. No longer can laws keep children of one race from nurturing arms of adoptive parents of another. This is a good start, but we must do more.

That is why I have just signed a presidential directive with a clear goal: We will double the number of children we move from foster care to permanent homes, from 27,000 a year today, to 54,000 a year by the year 2002. With this effort we're saying no child should be trapped in the limbo of foster care; no child should be

uncertain about what the word "family" or "parents" or "home" mean, particularly when there are open arms waiting to welcome these children into safe and strong households where they can build good, caring lives.

As part of this initiative, I'm directing the Secretary of Health and Human Services, Donna Shalala, who is also with us today, to launch an extensive effort to determine what steps we must take to meet our goal. I want the Secretary to report back to me with her recommendations in 60 days. This report must tell us how we can help states set and meet urgent new adoption targets. It must describe how we can improve coordination among local, state and federal authorities so that every community has access to the best ways to encourage adoption. And it must outline what sensible financial incentives we can provide states to raise adoption rates.

I also want the Secretary to determine what additional changes we can make in federal laws and regulations to ensure that children won't get trapped in foster care. And I want to know if there are any new provisions we can put in place to move children through the system faster and to protect them when they leave.

There are other steps we are taking immediately. I'm instructing the Departments of Treasury, Labor, Commerce, and Health and Human Services to launch an all-out effort to heighten public awareness about adoption and to recognize those in the private sector who are committing themselves to this important cause.

Let me also say how grateful I am to those in Congress of both parties who are working so hard to make adoption a reality for America's most vulnerable children. I want to thank especially Senators Rockefeller and DeWine, and Representatives Kennelly and Camp for their efforts.

The fact that we are commemorating the birth of a child that began life in a manger and became the Prince of Peace should remind us that the promise of God has been placed in every child. We must work tirelessly to make sure that every boy and girl in America who is up for adoption has a family waiting up to reach him or her. No child should be in foster care for one day longer than he or she needs to be.

This is a season of miracles, and perhaps there is no greater miracle than finding a loving home for a child who needs one.

Thanks for listening.

## THE CLINTON ADMINISTRATION RECORD ON ADOPTION

*"We must work tirelessly to make sure that every boy and girl in America who is up for adoption has a family waiting up to reach him or her. No child should be in foster care for one day longer than he or she needs to be." -- President Clinton, Radio Address, December 12, 1996*

President Clinton is following an ambitious legislative and administrative agenda to move children more rapidly from foster care to safe, permanent homes. This agenda is laid out in a report submitted to the President on February 14, 1997 by the Department of Health and Human Services, in response to an Executive Memorandum signed by President Clinton on December 14, 1996. The report, entitled "Adoption 2002," takes its name from one of the President's central goals -- to at least double by the year 2002, the number of children adopted or permanently placed each year. "Adoption 2002" is a blueprint for bipartisan Federal leadership in adoption and other permanency planning for children in the public child welfare system.

In receiving the "Adoption 2002" report, the President committed to following its ambitious action plan for federal leadership, including new assistance to states to set and meet urgent new adoption targets. Additionally, the President pledged to clarify, through legislation and guidelines to states, the laws, such as the "reasonable efforts" standard, that govern whether and when to remove a child from his or her family and when to reunify them. The President also committed to creating sensible financial incentives to states to increase adoption rates, and to providing technical assistance to states, courts and communities to move children more rapidly from foster care to permanent homes.

The Clinton Administration has previously taken several important steps to encourage and increase adoptions and to support the families that choose to open their hearts and their homes to these children. Since taking office in 1993, the President has championed programs that find and assist adopting families, and has committed his Administration to breaking down barriers, including high adoption costs and complex regulations. These steps include:

### **MAKING ADOPTION AFFORDABLE FOR FAMILIES**

In August, President Clinton signed into law the Small Business Job Protection Act of 1996 which provides a \$5000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. This policy will alleviate a significant barrier to adoption, helping middle class families for whom adoption may be prohibitively expensive and making it easier for families to adopt children with special needs. Since President Clinton took office, the number of children with special needs who were adopted with Federal adoption assistance has risen by 60 percent.

### **BREAKING DOWN RACIAL AND ETHNIC BARRIERS TO ADOPTION**

Strengthening the Multi-Ethnic Placement Act which the President signed in 1994, the Small Business Job Protection Act of 1996 also ensures that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity.

### **PROVIDING SUPPORTS FOR CHILD PROTECTION AND ADOPTION**

In 1993, President Clinton signed into law the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or health insurance. In addition, the welfare reform bill that the President signed into law maintains the guarantee of child protection and adoption, and does not reduce funds for child welfare, child abuse, foster care and adoption services.

### **RAISING PUBLIC AWARENESS**

Through speeches, writings, events and public service announcements, the President and First Lady have promoted the importance and benefits of adoption.