

DRAFT – Social Security Act with changes from the *Bipartisan Budget Act of 2018*, Public Law (P.L.) 115-123, enacted February 9, 2018. P.L. 115-123 included the *Family First Prevention Services Act* in Division E, Title VII of P.L. 115-123.

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## **TITLE IV**

### **PART B—Child And Family Services**

#### **SUBPART 1—STEPHANIE TUBBS JONES CHILD WELFARE SERVICES PROGRAM**

##### **PURPOSE**

SEC. 421. [42 U.S.C. 621] The purpose of this subpart is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families, by—

1. protecting and promoting the welfare of all children;
2. preventing the neglect, abuse, or exploitation of children
3. supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;
4. promoting the safety, permanence, and well-being of children in foster care and adoptive families; and
5. providing training, professional development and support to ensure a well-qualified child welfare workforce.

##### **STATE PLANS FOR CHILD WELFARE SERVICES**

SEC. 422. [42 U.S.C. 622] (a) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

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

(1) provide that (A) the individual or agency that administers or supervises the administration of the State's services program under subtitle I of title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent

that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under subtitle I of title XX, under the State program funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;

(4) contain a description of

(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

(B) the child welfare services staff development and training plans of the State;

(5) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State;

(6) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require;

(7) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed;

(8) provide assurances that the State-

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

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

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

(iii) a service program designed to help children-

(I) where safe and appropriate, return to families from which they have been removed; or

(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement subject to the requirements of sections 475(5)(C) and 475A(a) which may include a residential educational program; and

(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain safely with their families; and

(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;

(9) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act;

(10) contain assurances that the State shall make effective use of cross jurisdictional resources (including through contracts for the purchase of services), and shall eliminate legal barriers, to facilitate timely adoptive or permanent placements for waiting children;

(11) contain a description of the activities that the State has undertaken for children adopted from other countries, including the provision of adoption and post-adoption services;

(12) provide that the State shall collect and report information on children who are adopted from other countries and who enter into State custody as a result of the disruption of a placement for adoption or the dissolution of an adoption, including the number of children, the agencies who handled the placement or adoption, the plans for the child, and the reasons for the disruption or dissolution;

(13) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A;

(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;

(15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under subtitle I of title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of--

(i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;

(ii) how health needs identified through screenings will be monitored and treated, including emotional trauma associated with a child's maltreatment and removal from home;

(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

(iv) steps to ensure continuity of health services, which may include establishment of a medical home for every child in care;

(v) the oversight of prescription medicines, including protocols for the appropriate use and monitoring of psychotropic medications;

(vi) how the State actively consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children;

(vii)<sup>1</sup> the procedures and protocols the State has established to ensure that children in foster care placements are not inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and placed in settings that are not foster family homes as a result of the inappropriate diagnoses; and

(viii) steps to ensure that the components of the transition plan development process required under section 475(5)(H) that relate to the health care needs of children aging out of foster care, including the requirements to include options for health insurance, information about a health care power of attorney, health care proxy, or other similar document recognized under State law, and to provide the child with the option to execute such a document, are met; and

(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with respect to whom services are provided under the State plan developed pursuant to this subpart;

(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

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<sup>1</sup> Sec. 50743 redesignated sec. 422(b)(15)(A)(vii) as (viii) and added a new (vii). Effective as if enacted on 1/1/18. If the provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires (sec. 50746(d) of P.L. 115-123). Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the first regular session of the legislature after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sec. 50746(a)(2) of P.L. 115-123).

(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

(D) preserve essential program records; and

(E) coordinate services and share information with other States;

(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children;

(18)<sup>2</sup> include a description of the activities that the State has undertaken to reduce the length of time children who have not attained 5 years of age are without a permanent family, and the activities the State undertakes to address the developmental needs of all vulnerable children under 5 years of age; and

(19)<sup>3</sup> document steps taken to track and prevent child maltreatment deaths by including—

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

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

(c) DEFINITIONS.—In this subpart:

(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.

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<sup>2</sup> Sec. 50772 of P.L. 115-123 revised sec. 422(b)(18).

<sup>3</sup> Sec. 50732 of P.L. 115-123 revised sec. 422(b)(19). Effective 10/1/18. Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the first regular session of the legislature after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sec. 50734(b)(1) of P.L. 115-123).

## ALLOTMENTS TO STATES

SEC. 423. [42 U.S.C. 623] (a) IN GENERAL.—The sum appropriated pursuant to section 425 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: The Secretary 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) DETERMINATION OF STATE ALLOTMENT PERCENTAGES.—The "allotment percentage" for any State shall be 100 percent less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 percent 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 percent or more than 70 percent, and (2) the allotment percentage shall be 70 percent in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(c) PROMULGATION OF STATE ALLOTMENT PERCENTAGES.—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. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

(d) UNITED STATES DEFINED.—For purposes of this section, the term "United States" means the 50 States and the District of Columbia.

(e) REALLOTMENT OF FUNDS.—

(1) IN GENERAL.—The amount of any allotment to a State for a fiscal year under the preceding provisions of this section 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—

(A) need sums in excess of the amounts allotted to such other States under the preceding provisions of this section, in carrying out their State plans so developed; and

(B) will be able to so use such excess sums during the fiscal year.

(2) CONSIDERATIONS.—The Secretary shall make the reallocations on the basis of the State plans so developed, after taking into consideration—

(A) the population under 21 years of age;

(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

(3) AMOUNTS REALLOTTED TO A STATE DEEMED PART OF STATE ALLOTMENT.—Any amount so re-allotted to a State is deemed part of the allotment of the State under this section.

## PAYMENT TO STATES

SEC. 424. [42 U.S.C. 624] (a) From the sums appropriated therefore and the allotment under this subpart, subject to the conditions set forth in this section, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 percent of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

(b) The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

(2) From the allotment available therefore, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

(c) **LIMITATION ON USE OF FEDERAL FUNDS FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, OR ADOPTION ASSISTANCE PAYMENTS.**—The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

(d) **LIMITATION ON USE BY STATES OF NON-FEDERAL FUNDS FOR FOSTER CARE MAINTENANCE PAYMENTS TO MATCH FEDERAL FUNDS.**—For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.

(e) **LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.**—A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.

(f)(1)(A) Each State shall take such steps as are necessary to ensure that the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year is not less than 90 percent (or, in the case of fiscal year 2015 or thereafter, 95 percent) of the total number of such visits that would occur during the fiscal year if each such child were so visited once every month while in such care.

(B) If the Secretary determines that a State has failed to comply with subparagraph (A) for a fiscal year, then the percentage that would otherwise apply for purposes of subsection (a) for the fiscal year shall be reduced by—

(i) 1, if the number of full percentage points by which the State fell short of the percentage specified in subparagraph (A) is less than 10;

(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.

(2)(A) Each State shall take such steps as are necessary to ensure that not less than 50 percent of the total number of visits made by caseworkers to children in foster care under the responsibility of the State during a fiscal year occur in the residence of the child involved.

(B) If the Secretary determines that a State has failed to comply with subparagraph (A) for a fiscal year, then the percentage that would otherwise apply for purposes of subsection (a) for the fiscal year shall be reduced by—

(i) 1, if the number of full percentage points by which the State fell short of the percentage specified in subparagraph (A) is less than 10;

(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.

#### **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS**

SEC. 425. [42 U.S.C. 625] To carry out this subpart (other than sections 426, 427, and 429), there are authorized to be appropriated to the Secretary not more than \$325,000,000 for each of fiscal years 2017 through 2021.

#### **RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS**

SEC. 426. [42 U.S.C. 626] (a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine-

(1) for grants by the Secretary-

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting there from) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships described in section 429 with such stipends and allowances as may be permitted by the Secretary; and



(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) PAYMENTS; ADVANCES OR REIMBURSEMENTS; INSTALLMENTS; CONDITIONS.—Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

(c) CHILD WELFARE TRAINEESHIPS.—The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application-

(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a "recipient") will enter into an agreement with the institution under which the recipient agrees-

(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

(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.

## FAMILY CONNECTION GRANTS<sup>4</sup>

SEC. 427. [42 U.S.C. 627] (a) IN GENERAL.—The Secretary of Health and Human Services may make matching grants to State, local, or tribal child welfare agencies, private nonprofit organizations that have experience in working with foster children or children in kinship care arrangements, and institutions of higher education (as defined under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members through the implementation of—

(1) a kinship navigator program to assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs, and to promote effective partnerships among public and private agencies to ensure kinship caregiver families are served, which program—

(A) shall be coordinated with other State or local agencies that promote service coordination or provide information and referral services, including the entities that provide 2–1–1 or 3–1–1 information systems where available, to avoid duplication or fragmentation of services to kinship care families;

(B) shall be planned and operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant government agencies, and relevant community-based or faith-based organizations;

(C) shall establish information and referral systems that link (via toll-free access) kinship caregivers, kinship support group facilitators, and kinship service providers to—

(i) each other;

(ii) eligibility and enrollment information for Federal, State, and local benefits;

(iii) relevant training to assist kinship caregivers in caregiving and in obtaining benefits and services; and

(iv) relevant legal assistance and help in obtaining legal services;

(D) shall provide outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials;

(E) shall promote partnerships between public and private agencies, including schools, community based or faith-based organizations, and relevant government agencies, to increase their knowledge of the needs of kinship care families and other individuals who are willing and able to be foster parents for children in foster care under the responsibility of the State who are themselves parents to promote better services for those families;

(F) may establish and support a kinship care ombudsman with authority to intervene and help kinship caregivers access services; and

(G) may support any other activities designed to assist kinship caregivers in obtaining benefits and services to improve their caregiving;

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<sup>4</sup> Sec. 221 of P.L. 113-183 made changes to sec. 427 and reauthorized the program for 1 year, FY 2014. P.L. 115-123 created optional funding under title IV-E for kinship navigator programs that meet specific requirement in sec. 474(a)(7), but it did not reauthorize the grants under sec. 427.

## PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

SEC. 428. [42 U.S.C. 628] (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this subpart directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this subpart. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

(c) For purposes of this section, the terms “Indian tribe” and “tribal organization” shall have the meanings given such terms by subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively.

## NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE<sup>5</sup>

SEC. 429. [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).

(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

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<sup>5</sup> The *Deficit Reduction Act of 2005* (sec. 1701(c)) was the last time the *National Random Sample Study of Child Welfare* (known as the *National Survey of Child and Adolescent Well-Being* (NSCAW)) was reauthorized. Since then, NSCAW has been continued/funded through appropriations bills and not by reauthorizing sec. 429 itself. Funding levels have not changed since at least 2004, when the study was reauthorized by the DRA. Most recently, funding for NSCAW has been extended through the Children and Families Services Programs appropriation in P.L. 115-141, *Consolidated Appropriations Act, 2018*.

(3) **AUTHORITY TO CHARGE FEE.**—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

(e) **APPROPRIATION.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for each of fiscal years 1996 through 2002 \$6,000,000 to carry out this section.

## **SUBPART 2—PROMOTING SAFE AND STABLE FAMILIES**

### **FINDINGS AND PURPOSE**

SEC. 430. [42 U.S.C. 629] The purpose of this program is to enable States to develop and establish, or expand, and to operate coordinated programs of community-based family support services, family preservation services, family reunification services<sup>6</sup>, and adoption promotion and support services to accomplish the following objectives:

(1) To prevent child maltreatment among families at risk through the provision of supportive family services.

(2) To assure children's safety within the home and preserve intact families in which children have been maltreated, when the family's problems can be addressed effectively.

(3) To address the problems of families whose children have been placed in foster care so that reunification may occur in a safe and stable manner in accordance with the Adoption and Safe Families Act of 1997.

(4) To support adoptive families by providing support services as necessary so that they can make a lifetime commitment to their children.

### **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) pre-placement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain safely with their families;

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<sup>6</sup> Sec. 50721(b) of P.L. 115-123 removed references to "time-limited" regarding family reunification services in title IV-B, subpart 2. These revisions are effective 10/1/18 (sec. 50734 of P.L. 115-123).

(C) service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition; and

(F) infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a State law.

**(2) FAMILY SUPPORT SERVICES.-**

(A) **IN GENERAL.** —The term "family support services" means community-based services designed to carry out the purposes described in subparagraph (B).

(B) **PURPOSES DESCRIBED.** —The purposes described in this subparagraph are the following:

(i) To promote the safety and well-being of children and families.

(ii) To increase the strength and stability of families (including adoptive, foster, and extended families).

(iii)<sup>7</sup> To support and retain foster families so they can provide quality family-based settings for children in foster care.

(iv) To increase parents' confidence and competence in their parenting abilities.

(v) To afford children a safe, stable, and supportive family environment.

(vi) To strengthen parental relationships and promote healthy marriages.

(vii) To enhance child development, including through mentoring (as defined in section 439(b)(2)).

(3) **STATE AGENCY.**—The term "State agency" means the State agency responsible for administering the program under subpart 1.

(4) **STATE.**—The term "State" includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

(5) **INDIAN TRIBE.**—The term "Indian tribe" has the meaning given the term in section 428(c).

(6) **TRIBAL ORGANIZATION.**—The term "tribal organization" has the meaning given the term in section 428(c)

**(7) FAMILY REUNIFICATION SERVICES.-**

(A)<sup>8</sup> **IN GENERAL.**—The term 'family reunification services' means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution or a child who has been returned home and to the parents or

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<sup>7</sup> Sec. 50751 of P.L. 115-123 amended sec. 431(a)(2)(B)(iii) to add the language in (iii) and renumber the remaining paragraphs (iv) – (vii).

<sup>8</sup> Sec 50721(a) of P.L. 115-123 amended sec. 431(a)(7)(A). Effective 10/1/18 (sec. 50734(a)(1) of P.L. 115-123).

primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, and to ensure the strength and stability of the reunification. In the case of a child who has been returned home, the services and activities shall only be provided during the 15-month period that begins on the date that the child returns home.

(B) **SERVICES AND ACTIVITIES DESCRIBED.**—The services and activities described in this subparagraph are the following:

- (i) Individual, group, and family counseling.
- (ii) Inpatient, residential, or outpatient substance abuse treatment services.
- (iii) Mental health services.
- (iv) Assistance to address domestic violence.
- (v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.
- (vi) Peer-to-peer mentoring and support groups for parents and primary caregivers.
- (vii) Services and activities designed to facilitate access to and visitation of children by parents and siblings.
- (viii) Transportation to or from any of the services and activities described in this subparagraph.

(8) **ADOPTION PROMOTION AND SUPPORT SERVICES.**—The term 'adoption promotion and support services' means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre and post adoptive services and activities designed to expedite the adoption process and support adoptive families.

(9) **NON-FEDERAL FUNDS.**—The term 'non Federal funds' means State funds, or at the option of a State, State and local funds.

(b) **OTHER TERMS.**—For other definitions of other terms used in this subpart, see section 475.

## **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, community-based family support services, family reunification services<sup>9</sup>, and adoption promotion and support services, with significant portions of such expenditures for each such program;

(5) contains assurances that the State will-

(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services, community-based family support services, family reunification services<sup>10</sup>, and adoption promotion and support services) of-

(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

(ii) the populations which the programs will serve; and

(iii) the geographic areas in the State in which the services will be available; and

(B) perform the activities described in subparagraph (A)-

(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A);

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<sup>9</sup> See footnote 6.

<sup>10</sup> See footnote 6.

(8)(A) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require; and

(B) provides that, not later than June 30 of each year, the State will submit to the Secretary -

(i) copies of form CFS-101 (including all parts and any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

(ii) copies of form CFS-101 (including all parts and any successor forms) that provide, with respect to the program authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete -

(I) the numbers of families and of children served by the State agency;

(II) the population served by the State agency;

(III) the geographic areas served by the State agency; and

(IV) the actual expenditures of funds provided to the State agency;

(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern; and

(10) describes how the State identifies which populations are at the greatest risk of maltreatment and how services are targeted to the populations.

(b) APPROVAL OF PLANS.-

(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community based organizations with experience in administering programs of services for children and families (including family preservation, family support, family reunification<sup>11</sup>, and adoption promotion and support services).

(2) PLANS OF INDIAN TRIBES OR TRIBAL CONSORTIA.-

(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe or tribal consortium from the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements would be inappropriate to apply to the Indian tribe or tribal consortium, taking into account the resources, needs, and other circumstances of the Indian tribe or tribal consortium.

(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe or tribal consortium under this subpart to which (but for this subparagraph) an allotment of less than \$10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes and tribal consortia with plans approved under this subpart with the same or larger numbers of children.

(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—

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<sup>11</sup> See footnote 6.



(1) **IN GENERAL.** —The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) **INFORMATION TO BE INCLUDED** —The compilation shall include the individual State reports and tables that synthesize State information into national totals for each element required to be included in the reports, including planned and actual spending by service category for the program authorized under this subpart and planned spending by service category for the program authorized under subpart 1.

(3) **PUBLIC ACCESSIBILITY.**—Not later than September 30 of each year, the Secretary shall publish the compilation on the website of the Department of Health and Human Services in a location easily accessible by the public.

## **ALLOTMENTS TO STATES**

SEC. 433. [42 U.S.C. 629c] (a) **INDIAN TRIBES OR TRIBAL CONSORTIA.**—From the amount reserved pursuant to section 436(b)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary. If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of allotments determined for each Indian tribe that is part of the consortium.

(b) **TERRITORIES.**—From the amount described in section 436(a) for any fiscal year that remains after applying section 436(b) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423.

(c) **OTHER STATES.**—

(1) **IN GENERAL.**—From the amount described in section 436(a) for any fiscal year that remains after applying section 436(b) 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 supplemental nutrition assistance program benefits percentage of the State for the fiscal year.

(2) **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS PERCENTAGE DEFINED.**—

(A) **IN GENERAL.**—As used in paragraph (1) of this subsection, the term "supplemental nutrition assistance program benefits percentage" means, with respect to a State and a fiscal year, the average monthly number of children receiving supplemental nutrition assistance program 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 supplemental nutrition assistance program 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.

(d) **REALLOTMENTS.**—The amount of any allotment to a State under subsection (a), (b), or (c) of this section for any fiscal year that the State certifies to the Secretary will not be required for carrying out the State plan under section 432 shall be available for reallocation using the allotment methodology specified in subsection (a), (b), or (c) of this section. Any amount so reallocated to a State is deemed part of the allotment of the State under the preceding provisions of this section

(e) **ALLOTMENT OF FUNDS RESERVED TO SUPPORT MONTHLY CASEWORKER VISITS.**—

(1) **TERRITORIES.**—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year, the Secretary shall allot to each jurisdiction specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the jurisdiction has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423 (without regard to the initial allotment of \$70,000 to each State).

(2) **OTHER STATES.**—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year that remains after applying paragraph (1) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian Tribe) not specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the State had complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount equal to such remaining amount multiplied by the supplemental nutrition assistance program benefits percentage of the State (as defined in subsection (c)(2) of this section) for the fiscal year, except that in applying subsection (c)(2)(A) of this section, 'subsection (e)(2)' shall be substituted for 'such paragraph (1)'.

## **PAYMENT TO STATES**

**SEC. 434. [42 U.S.C. 629d] (a) ENTITLEMENT.**—Each State that has a plan approved under section 432 shall, subject to subsection (d) be entitled to payment of the sum of—

(1) the lesser of—

(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

(B) the allotment of the State under subsection (a), (b), or (c) of section 433, whichever is applicable, for the fiscal year; and

(2) the lesser of—

(A) 75 percent of the total expenditures by the State in accordance with section 436(b)(4)(B) during the fiscal year or the immediately succeeding fiscal year; or

(B) the allotment of the State under section 433(e) for the fiscal year.

(b) PROHIBITIONS.—

(1) No use of other federal funds for state match.—Each State receiving an amount paid under subsection (a) may not expend any Federal funds to meet the costs of services under the State plan under section 432 not covered by the amount so paid.

(2) Availability of funds.—A State may not expend any amount paid under subsection (a) for any fiscal year after the end of the immediately succeeding fiscal year.

(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES OR TRIBAL CONSORTIA.—The Secretary shall pay any amount to which an Indian tribe or tribal consortium is entitled under this section directly to the tribal organization of the Indian tribe or in the case of a payment to a tribal consortium, such tribal organizations of, or entity established by, the Indian tribes that are part of the consortium as the consortium shall designate.

(d) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—The Secretary shall not make a payment to a State under this section with respect to expenditures for administrative costs during a fiscal year, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year under the State plan approved under section 432.

## EVALUATIONS, RESEARCH, TECHNICAL ASSISTANCE

### SEC. 435. [42 U.S.C. 629e] (a) EVALUATIONS.—

(1) IN GENERAL.—The Secretary shall evaluate and report to the Congress biennially on effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, and may evaluate 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, 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.

(3) TIMING OF REPORT.—Beginning in 2003, the Secretary shall submit the biennial report required by this subsection not later than April 1 of every other year, and shall include in each such report the funding level, the status of ongoing evaluations, findings to date, and the nature of any technical assistance provided to States under subsection (d).

(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.

(c) **EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.**—Of the amount reserved under section 436(b)(1) for a fiscal year, the Secretary shall use not less than—

(1) \$1,000,000 for evaluations, research, and providing technical assistance with respect to supporting monthly caseworker visits with children who are in foster care under the responsibility of the State, in accordance with section 436(b)(4)(B)(i); and

(2) \$1,000,000 for evaluations, research, and providing technical assistance with respect to grants under section 437(f).

(d) **TECHNICAL ASSISTANCE.**—To the extent funds are available therefor, the Secretary shall provide technical assistance that helps States and Indian tribes or tribal consortia to—

(1) develop research-based protocols for identifying families at risk of abuse and neglect of use in the field;

(2) develop treatment models that address the needs of families at risk, particularly families with substance abuse issues;

(3) implement programs with well-articulated theories of how the intervention will result in desired changes among families at risk;

(4) establish mechanisms to ensure that service provision matches the treatment model; and

(5) establish mechanisms to ensure that postadoption services meet the needs of the individual families and develop models to reduce the disruption rates of adoption.

## **AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS**

SEC. 436. [42 U.S.C. 629f] (a) **AUTHORIZATION.** —In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart \$345,000,000 for each of fiscal years 2017 through 2021.

(b) **RESERVATION OF CERTAIN AMOUNTS.** — From the amount specified in subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) **EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.**—The Secretary shall reserve \$6,000,000 for expenditure by the Secretary-

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

(B) for evaluation of State programs based on the plans approved under section 432 and funded under this subpart, and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the State programs.

(2) **STATE COURT IMPROVEMENTS.** — The Secretary shall reserve \$30,000,000 for grants under section 438.

(3) **INDIAN TRIBES OR TRIBAL CONSORTIA.** — After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the Secretary shall reserve 3

percent for allotment to Indian tribes or tribal consortia in accordance with section 433(a).

(4) **SUPPORT FOR MONTHLY CASEWORK VISITS.** –

(A) **RESERVATION.** — The Secretary shall reserve for allotment in accordance with section 433(e) \$20,000,000 for each of fiscal years 2017 through 2021.

(B) **USE OF FUNDS.**–

(i) **IN GENERAL.**—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to improve the quality of monthly caseworker visits with children who are in foster care under the responsibility of the State, with an emphasis on improving caseworker decision making on the safety, permanency, and well-being of foster children and on activities designed to increase retention, recruitment, and training of caseworkers.

(ii) **NONSUPPLANTATION.**—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).

(5) **REGIONAL PARTNERSHIP GRANTS.**—The Secretary shall reserve for awarding grants under section 437(f) \$20,000,000 for each of fiscal years 2017 through 2021.

(c)<sup>12</sup> **SUPPORT FOR FOSTER FAMILY HOMES.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2018, \$8,000,000 for the Secretary to make competitive grants to States, Indian tribes, or tribal consortia to support the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings, focused on States, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings. The amount appropriated under this subparagraph shall remain available through fiscal year 2022.

## **DISCRETIONARY AND TARGETED GRANTS**

**SEC. 437.** [42 U.S.C. 629g] (a) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.** – In addition to any amount appropriated pursuant to section 436, there are authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2017 through 2021.

(b) **RESERVATION OF CERTAIN AMOUNTS.** –From the amount (if any) appropriated pursuant to subsection (a) for a fiscal year, the Secretary shall reserve amounts as follows:

(1) **EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.** – The Secretary shall reserve 3.3 percent for expenditure by the Secretary for the activities described in section 436(b)(1).

(2) **STATE COURT IMPROVEMENTS.** – The Secretary shall reserve 3.3 percent for grants under section 438.

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<sup>12</sup> Sec. 50751(b) of P.L. 115-123 created a new grant in sec. 436(c).

(3) INDIAN TRIBES OR TRIBAL CONSORTIA. – The Secretary shall reserve 3 percent for allotment to Indian tribes or tribal consortia in accordance with subsection (c)(1).

(4)<sup>13</sup> IMPROVING THE INTERSTATE PLACEMENT OF CHILDREN.—The Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 2018 for grants under subsection (g), and the amount so reserved shall remain available through fiscal year 2022.

(c) ALLOTMENTS. –

(1) INDIAN TRIBES OR TRIBAL CONSORTIA. – From the amount (if any) reserved pursuant to subsection (b)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary. If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.

(2) TERRITORIES. – From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423.

(3) OTHER STATES. – From the amount (if any) appropriated pursuant to subsection (a) for any fiscal year that remains after applying subsection (b) and paragraph (2) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in paragraph (2) of this subsection an amount equal to such remaining amount multiplied by the supplemental nutrition assistance program benefits percentage (as defined in section 433(c)(2)) of the State for the fiscal year.

(d) GRANTS. – The Secretary may make a grant to a State which has a plan approved under this subpart in an amount equal to the lesser of –

(1) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

(2) the allotment of the State under subsection (c) for the fiscal year.

(e) APPLICABILITY OF CERTAIN RULES. – The rules of subsections (b) and (c) of section 434 shall apply in like manner to the amounts made available pursuant to subsection (a).

(f)<sup>14</sup> TARGETED GRANTS TO IMPLEMENT IV–E PREVENTION SERVICES, AND IMPROVE THE WELL-BEING OF, AND IMPROVE PERMANENCY OUTCOMES FOR, CHILDREN AND FAMILIES AFFECTED BY HEROIN, OPIOIDS, AND OTHER SUBSTANCE ABUSE. –

(1) PURPOSE. – The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency

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<sup>13</sup> Sec. 50722(d) of P.L. 115-123 created a new reserve category. Effective 10/1/18 (section 50734 of P.L. 115-123).

<sup>14</sup> Sec. 50723 of P.L. 115-123 revised sec. 437(f). Previously, grants under sec. 437(f) were to “Increase The Well Being Of, And To Improve The Permanency Outcomes For, Children Affected By Substance Abuse,” known as the Regional Partnership Grants (RPG). Effective 10/1/18 (section 50734 of P.L. 115-123).

collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's substance abuse.

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

(A) MANDATORY PARTNERS FOR ALL PARTNERSHIP GRANTS.—

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

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

(B) MANDATORY PARTNERS FOR PARTNERSHIP GRANTS PROPOSING TO SERVE CHILDREN IN OUT-OF-HOME PLACEMENTS.—

If the partnership proposes to serve children in out-of-home placements, the Juvenile Court or Administrative Office of the Court that is most appropriate to oversee the administration of court programs in the region to address the population of families who come to the attention of the court due to child abuse or neglect.

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

(i) An Indian tribe or tribal consortium.

(ii) Nonprofit child welfare service providers.

(iii) For-profit child welfare service providers.

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

(v) Community mental health providers.

(vi) Local law enforcement agencies.

(vii) School personnel.

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

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

(D) EXCEPTION FOR REGIONAL PARTNERSHIPS WHERE THE LEAD APPLICANT IS AN INDIAN TRIBE OR TRIBAL CONSORTIA. – If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

(i) may (but is not required to) include the State child welfare agency as a partner in the collaborative agreement;

(ii) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of the agencies); and

(iii) if the condition described in paragraph (2)(B) applies, may include tribal court organizations in lieu of other judicial partners.

(3) AUTHORITY TO AWARD GRANTS. –

(A) IN GENERAL. – In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2017 through 2021 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than \$250,000 and not more than \$1,000,000 per grant per fiscal year.

(B) REQUIRED MINIMUM PERIOD OF APPROVAL; PLANNING. –

(i) IN GENERAL. –A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years, subject to clauses (ii) and (iii).

(ii) EXTENSION OF GRANT. –On application of the grantee, the Secretary may extend for not more than 2 fiscal years the period for which a grant is awarded under this subsection.

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

(C) MULTIPLE GRANTS ALLOWED.—This subsection shall not be interpreted to prevent a grantee from applying for, or being awarded, separate grants under this subsection.

(D) LIMITATION ON PAYMENT FOR A FISCAL YEAR.—No payment shall be made under subparagraph (A) or (C) for a fiscal year until the Secretary determines that the eligible partnership has made sufficient progress in meeting the goals of the grant and that the members of the eligible partnership are coordinating to a reasonable degree with the other members of the eligible partnership.

(4) APPLICATION REQUIREMENTS. – To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

(A) Recent evidence demonstrating that substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out- of- home placement, in the partnership region.

(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will-

(i) enhance the well-being of children, parents, and families receiving services or taking part in activities conducted with funds provided under the grant;

(ii) lead to safe, permanent caregiving relationships for the children; and

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

(iv) facilitate the implementation, delivery, and effectiveness of prevention services and programs under section 471(e); and



(v) decrease the number of out-of-home placements for children, increase reunification rates for children who have been placed in out of home care or decrease the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and, the child's family.

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

(F) Additional information needed by the Secretary to determine that the proposed activities and implementation will be consistent with research or evaluations showing which practices and approaches are most effective.

(5) USE OF FUNDS. – Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

(A) Family- based comprehensive long- term substance use disorder treatment including medication assisted treatment and in-home substance abuse disorder treatment and recovery.

(B) Early intervention and preventative services.

(C) Children and family counseling.

(D) Mental health services.

(E) Parenting skills training.

(F) Replication of successful models for providing family- based comprehensive long- term substance abuse treatment services.

(6) MATCHING REQUIREMENT. –

(A) FEDERAL SHARE. – A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed-

(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

(ii) 80 percent for the third and fourth such fiscal years;

(iii) 75 percent for the fifth such fiscal year;

(iv) 70 percent for the sixth such fiscal year; and

(v) 65 percent for the seventh such fiscal year.

(B) NON-FEDERAL SHARE. –The non- Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non- Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non- Federal sources.

(7) CONSIDERATIONS IN AWARDING GRANTS. – In awarding grants under this subsection, the Secretary shall take into consideration the extent to which applicant regional partnerships-

(A) demonstrate that substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

(B) have limited resources for addressing the needs of children affected by such abuse;

(C) have a lack of capacity for, or access to, comprehensive family treatment services;

(D) demonstrate a track record of successful collaboration among child welfare, substance abuse disorder treatment and mental health agencies; and

(E) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period.

(8) PERFORMANCE INDICATORS. –

(A) IN GENERAL. – Not later than 9 months after the date of enactment of this subsection, the Secretary shall review indicators that are used to assess periodically the performance of the grant recipients under this subsection and establish a set of core indicators related to child safety, parental recovery, parenting capacity, and family well-being. In developing the core indicators, to the extent possible, indicators shall be made consistent with the outcome measures described in section 471(e)(6).

(B) CONSULTATION REQUIRED. – In establishing the performance indicators required by subparagraph (A), the Secretary shall base the performance measures on lessons learned from prior rounds of regional partnership grants under this subsection, and consult with the following:

(i) The Assistant Secretary for the Administration for Children and Families.

(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

(iii) Other stakeholders or constituencies as determined by the Secretary.

(9) REPORTS. –

(A) GRANTEE REPORTS. –

(i) SEMIANNUAL REPORTS. – Not later than September 30 of each fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and every 6 months thereafter, the grant recipient shall submit to the Secretary a report on the services provided and activities carried out during that reporting period, progress made in achieving the goals of the program, the number of children, adults, and families receiving services, and such additional information as the Secretary determines is necessary. The report due not later than September 30 of the last such fiscal year shall include, at a minimum, data on each of the performance indicators included in the evaluation of the regional partnership.

(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS. – Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

(B) REPORTS TO CONGRESS. – On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on–

(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

(ii) the performance indicators established under paragraph (8);  
and

(iii) the progress that has been made in addressing the needs of families with substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.

(10) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF THE SECRETARY.—Not more than 5 percent of the amounts appropriated or reserved for awarding grants under this subsection for each of fiscal years 2017 through 2021 may be used by the Secretary for salaries and Department of Health and Human Services administrative expenses in administering this subsection.

(g)<sup>15</sup> FUNDING FOR THE DEVELOPMENT OF AN ELECTRONIC INTERSTATE CASE-PROCESSING SYSTEM TO EXPEDITE THE INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE OR GUARDIANSHIP, OR FOR ADOPTION.—

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

(2) REQUIREMENTS.—A State that seeks funding under this subsection shall submit to the Secretary the following:

(A) A description of the goals and outcomes to be achieved, which goals and outcomes must result in—

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

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

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

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

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

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

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<sup>15</sup> Sec. 50722(c) of P.L. 115-123 created a new grant in sec. 437(g). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

(3) **FUNDING AUTHORITY.**—The Secretary may provide to a State that complies with paragraph (2). In providing funds under this subsection, the Secretary shall prioritize States that are not yet connected with the electronic interstate case processing system referred to in paragraph (1).

(4) **USE OF FUNDS.**—A State to which funding is provided under this subsection shall use the funding to support the State in connecting with, or enhancing or expediting services provided under, the electronic interstate case-processing system referred to in paragraph (1).

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

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

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

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

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

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

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

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

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

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

**ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE  
HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION<sup>16</sup>**

SEC. 438. [42 U.S.C. 629h] (a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) that implement parts B and E;

(B) that determine the advisability or appropriateness of foster care placement;

(C) that determine whether to terminate parental rights;

(D) that determine whether to approve the adoption or other permanent placement of a child; and

(E) that determine the best strategy to use to expedite the interstate placement of children, including—

(i) requiring courts in different States to cooperate in the sharing of information;

(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and

(2) to implement improvements the highest state courts deem necessary as a result of the assessments, including—

(A) to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105- 89), including the requirements in the Act related to concurrent planning;

(B) to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act; and

(C) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption;

(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

(4)(A) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.

(B) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption;

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<sup>16</sup> Sec. 107(e) of P.L. 107-133, amended and re-designated section 13712 of the *Omnibus Budget Reconciliation Act of 1993* (42 U.S.C. 670 note) as section 438 of the Act.

(b) APPLICATIONS.—

(1)<sup>17</sup> IN GENERAL.— In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

(2) SINGLE GRANT APPLICATION.— Pursuant to the requirements under paragraph (1) of this subsection, a highest State court desiring a grant under this section shall submit a single application to the Secretary that specifies whether the application is a grant for—

(A) the purposes described in paragraphs (1) and (2) of subsection (a);

(B) the purpose described in subsection (a)(3);

(C) the purpose described in subsection (a)(4); or

(D) the purposes referred to in 2 or more (specifically identified) of subparagraphs (A), (B), and (C) of this paragraph.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.— With respect to each of subparagraphs (A), (B), and (C) of subsection (b)(2) that refers to 1 or more grant purposes for which an application of a highest State court is approved under this section, the court shall be entitled to payment, for each of fiscal years 2017 through 2021, from the amount allocated under paragraph (3) of this subsection for grants for the purpose or purposes, of an amount equal to \$85,000 plus the amount described in paragraph (2) of this subsection with respect to the purpose or purposes.

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<sup>17</sup> Sec. 50741(c) of P.L. 115-123 revised sec. 438(b)(1) to add language regarding training. Effective as if enacted on 1/1/18 (sec. 50746(a)(1) of P.L. 115-123).

(2) AMOUNT DESCRIBED.— The amount described in this paragraph for any fiscal year with respect to the purpose or purposes referred to in a subparagraph of subsection (b)(2) is the amount that bears the same ratio to the total of the amounts allocated under paragraph (3) of this subsection for grants for the purpose or purposes as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under this section for grants for the purpose or purposes.

(3) ALLOCATION OF FUNDS.—

(A) MANDATORY FUNDS.—Of the amounts reserved under section 436(b)(2) for any fiscal year, the Secretary shall allocate—

(i) \$9,000,000 for grants for the purposes described in paragraphs (1) and (2) of subsection (a);

(ii) \$10,000,000 for grants for the purpose described in subsection (a)(3);

(iii) \$10,000,000 for grants for the purpose described in subsection (a)(4); and

(iv) \$1,000,000 for grants to be awarded on a competitive basis among the highest courts of Indian tribes or tribal consortia that—

(I) are operating a program under part E, in accordance with section 479B;

(II) are seeking to operate a program under part E and have received an implementation grant under section 476; or

(III) has a court responsible for proceedings related to foster care or adoption.

(B) DISCRETIONARY FUNDS.—The Secretary shall allocate all of the amounts reserved under section 437(b)(2) for grants for the purposes described in paragraphs (1) and (2) of subsection (a).

(d) EXTENSION OF FEDERAL SHARE.— Each highest State court which receives funds paid under this section may use such funds to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2017 through 2021.

## **GRANTS FOR PROGRAMS FOR MENTORING CHILDREN OF PRISONERS**

SEC. 439. [42 U.S.C. 629i] (a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—

(A) In the period between 1991 and 1999, the number of children with a parent incarcerated in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. In 1999, 2.1 percent of all children in the United States had a parent in Federal or State prison.

(B) Prior to incarceration, 64 percent of female prisoners and 44 percent of male prisoners in State facilities lived with their children.

(C) Nearly 90 percent of the children of incarcerated fathers live with their mothers, and 79 percent of the children of incarcerated mothers live with a grandparent or other relative.

(D) Parental arrest and confinement lead stress, trauma, stigmatization, and separation problems for children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high-crime environments, intrafamilial abuse, child abuse and neglect, multiple care givers, and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health, and educational problems that are often compounded by the pain of separation.

(E) Empirical research demonstrates that mentoring is a potent force for improving children's behavior across all risk behaviors affecting health. Quality, one-on-one relationships that provide young people with caring role models for future success have profound, life-changing potential. Done right, mentoring markedly advances youths' life prospects. A widely cited 1995 study by Public/Private Ventures measured the impact of one Big Brothers Big Sisters program and found significant effects in the lives of youth cutting first-time drug use by almost half and first-time alcohol use by about a third, reducing school absenteeism by half, cutting assaultive behavior by a third, improving parental and peer relationships, giving youth greater confidence in their school work, and improving academic performance.

(2) PURPOSES.—The purposes of this section are to authorize the Secretary—

(A) to make competitive grants to applicants in areas with substantial numbers of children of incarcerated parents, to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring services for children of prisoners; and

(B) to enter into on a competitive basis a cooperative agreement to conduct a service delivery demonstration project in accordance with the requirements of subsection (g).

(b) DEFINITIONS.—In this section:

(1) CHILDREN OF PRISONERS.—The term “children of prisoners” means children one or both of whose parents are incarcerated in a Federal, State, or local correctional facility. The term is deemed to include children who are in an ongoing mentoring relationship in a program under this section at the time of their parents' release from prison, for purposes of continued participation in the program.

(2) MENTORING.—The term “mentoring” means a structured, managed program in which children are appropriately matched with screened and trained adult volunteers for one-on-one relationships, involving meetings and activities on a regular basis, intended to meet, in part, the child's need for involvement with a caring and supportive adult who provides a positive role model.

(3) MENTORING SERVICES.—The term “mentoring services” means those services and activities that support a structured, managed program of mentoring, including the management by trained personnel of outreach to, and screening of, eligible children; outreach to, education and training of, and liaison with sponsoring local organizations; screening and training of adult volunteers; matching of children with suitable adult volunteer mentors; support and oversight of the mentoring relationship; and establishment of goals and evaluation of outcomes for mentored children.

(c) PROGRAM AUTHORIZED.—From the amounts appropriated under subsection (i) for a fiscal year that remain after applying subsection (i)(2), the Secretary shall make grants



under this section for each of fiscal years 2007 through 2011 to State or local governments, tribal governments or tribal consortia, faith-based organizations, and community-based organizations in areas that have significant numbers of children of prisoners and that submit applications meeting the requirements of this section, in amounts that do not exceed \$5,000,000 per grant.

(d) **APPLICATION REQUIREMENTS.**—In order to be eligible for a grant under this section, the chief executive officer of the applicant must submit to the Secretary an application containing the following:

(1) **PROGRAM DESIGN.**—A description of the proposed program, including—

(A) a list of local public and private organizations and entities that will participate in the mentoring network;

(B) the name, description, and qualifications of the entity that will coordinate and oversee the activities of the mentoring network;

(C) the number of mentor-child matches proposed to be established and maintained annually under the program;

(D) such information as the Secretary may require concerning the methods to be used to recruit, screen support, and oversee individuals participating as mentors, (which methods shall include criminal background checks on the individuals), and to evaluate outcomes for participating children, including information necessary to demonstrate compliance with requirements established by the Secretary for the program; and

(E) such other information as the Secretary may require.

(2) **COMMUNITY CONSULTATION; COORDINATION WITH OTHER PROGRAMS.**—A demonstration that, in developing and implementing the program, the applicant will, to the extent feasible and appropriate—

(A) consult with public and private community entities, including religious organizations, and including, as appropriate, Indian tribal organizations and urban Indian organizations, and with family members of potential clients;

(B) coordinate the programs and activities under the program with other Federal, State, and local programs serving children and youth; and

(C) consult with appropriate Federal, State, and local corrections, workforce development, and substance abuse and mental health agencies.

(3) **EQUAL ACCESS FOR LOCAL SERVICE PROVIDERS.**—An assurance that public and private entities and community organizations, including religious organizations and Indian organizations, will be eligible to participate on an equal basis.

(4) **RECORDS, REPORTS, AND AUDITS.**—An agreement that the applicant will maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

(5) **EVALUATION.**—An agreement that the applicant will cooperate fully with the Secretary's ongoing and final evaluation of the program under the plan, by means including providing the Secretary access to the program and program-related records and documents, staff, and grantees receiving funding under the plan.

(e) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—A grant for a program under this section shall be available to pay a percentage share of the costs of the program up to—

(A) 75 percent for the first and second fiscal years for which the grant is awarded; and

(B) 50 percent for the third and each succeeding such fiscal years.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects under this section may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

(f) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall take into consideration—

(1) the qualifications and capacity of applicants and networks of organizations to effectively carry out a mentoring program under this section;

(2) the comparative severity of need for mentoring services in local areas, taking into consideration data on the numbers of children (and in particular of low-income children) with an incarcerated parents (or parents) in the areas;

(3) evidence of consultation with existing youth and family service programs, as appropriate; and

(4) any other factors the Secretary may deem significant with respect to the need for or the potential success of carrying out a mentoring program under this section.

(g) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(1) PURPOSE; AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with an eligible entity that meets the requirements of paragraph (2) for the purpose of requiring the entity to conduct a demonstration project consistent with this subsection under which the entity shall—

(A) identify children of prisoners in need of mentoring services who have not been matched with a mentor by an applicant awarded a grant under this section, with a priority for identifying children who—

(i) reside in an area not served by a recipient of a grant under this section;

(ii) reside in an area that has a substantial number of children of prisoners;

(iii) reside in a rural area; or

(iv) are Indians;

(B) provide the families of the children so identified with—

(i) a voucher for mentoring services that meets the requirements of paragraph (5); and

(ii) a list of the providers of mentoring services in the area in which the family resides that satisfy the requirements of paragraph (6); and

(C) monitor and oversee the delivery of mentoring services by providers that accept the vouchers.

(2) ELIGIBLE ENTITY.—

(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity under this subsection is an organization that the Secretary determines, on a competitive basis—

(i) has substantial experience—

(I) in working with organizations that provide mentoring services for children of prisoners; and

(II) in developing quality standards for the identification and assessment of mentoring programs for children of prisoners; and

(ii) submits an application that satisfies the requirements of paragraph (3).

(B) **LIMITATION.**—An organization that provides mentoring services may not be an eligible entity for purposes of being awarded a cooperative agreement under this subsection.

(3) **APPLICATION REQUIREMENTS.**—To be eligible to be awarded a cooperative agreement under this subsection, an entity shall submit to the Secretary an application that includes the following:

(A) **QUALIFICATIONS.**—Evidence that the entity—

(i) meets the experience requirements of paragraph (2)(A)(i); and

(ii) is able to carry out—

(I) the purposes of this subsection identified in paragraph (1); and

(II) the requirements of the cooperative agreement specified in paragraph (4).

(B) **SERVICE DELIVERY PLAN.**—

(i) **DISTRIBUTION REQUIREMENTS.**—Subject to clause (iii), a description of the plan of the entity to ensure the distribution of not less than—

(I) 3,000 vouchers for mentoring services in the first year in which the cooperative agreement is in effect with that entity;

(II) 8,000 vouchers for mentoring services in the second year in which the agreement is in effect with that entity; and

(III) 13,000 vouchers for mentoring services in any subsequent year in which the agreement is in effect with that entity.

(ii) **SATISFACTION OF PRIORITIES.**—A description of how the plan will ensure the delivery of mentoring services to children identified in accordance with the requirements of paragraph (1)(A).

(iii) **SECRETARIAL AUTHORITY TO MODIFY DISTRIBUTION REQUIREMENT.**—The Secretary may modify the number of vouchers specified in subclauses (I) through (III) of clause (i) to take into account the availability of appropriations and the need to ensure that the vouchers distributed by the entity are for amounts that are adequate to ensure the provision of mentoring services for a 12-month period.

(C) **COLLABORATION AND COOPERATION.**—A description of how the entity will ensure collaboration and cooperation with other interested parties, including courts and prisons, with respect to the delivery of mentoring services under the demonstration project.

(D) OTHER.—Any other information that the Secretary may find necessary to demonstrate the capacity of the entity to satisfy the requirements of this subsection.

(4) COOPERATIVE AGREEMENT REQUIREMENTS.—A cooperative agreement awarded under this subsection shall require the eligible entity to do the following:

(A) IDENTIFY QUALITY STANDARDS FOR PROVIDERS.—To work with the Secretary to identify the quality standards that a provider of mentoring services must meet in order to participate in the demonstration project and which, at a minimum, shall include criminal records checks for individuals who are prospective mentors and shall prohibit approving any individual to be a mentor if the criminal records check of the individual reveals a conviction which would prevent the individual from being approved as a foster or adoptive parent under section 471(a)(20)(A).

(B) IDENTIFY ELIGIBLE PROVIDERS.—To identify and compile a list of those providers of mentoring services in any of the 50 States or the District of Columbia that meet the quality standards identified pursuant to subparagraph (A).

(C) IDENTIFY ELIGIBLE CHILDREN.—To identify children of prisoners who require mentoring services, consistent with the priorities specified in paragraph (1)(A).

(D) MONITOR AND OVERSEE DELIVERY OF MENTORING SERVICES.—To satisfy specific requirements of the Secretary for monitoring and overseeing the delivery of Mentoring services under the demonstration project, which shall include a requirement to ensure that providers of mentoring services under the project report data on the children served and the types of mentoring services provided.

(E) RECORDS, REPORTS, AND AUDITS.—To maintain any records, make any reports, and cooperate with any reviews and audits that the Secretary determines are necessary to oversee the activities of the entity in carrying out the demonstration project under this subsection.

(F) EVALUATIONS.—To cooperate fully with any evaluations of the demonstration project, including collecting and monitoring data and providing the Secretary or the Secretary's designee with access to records and staff related to the conduct of the project.

(G) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—To ensure that administrative expenditures incurred by the entity in conducting the demonstration project with respect to a fiscal year do not exceed the amount equal to 10 percent of the amount awarded to carry out the project for that year.

(5) VOUCHER REQUIREMENTS.—A voucher for mentoring services provided to the family of a child identified in accordance with paragraph (1)(A) shall meet the following requirements:

(A) TOTAL PAYMENT AMOUNT; 12-MONTH SERVICE PERIOD.—The voucher shall specify the total amount to be paid a provider of mentoring services for providing the child on whose behalf the voucher is issued with mentoring services for a 12-month period.

(B) PERIODIC PAYMENTS AS SERVICES PROVIDED.—

(i) IN GENERAL.—The voucher shall specify that it may be redeemed with the eligible entity by the provider accepting the voucher in return for agreeing to provide mentoring services for the child on whose behalf the voucher is issued.

(ii) DEMONSTRATION OF THE PROVISION OF SERVICES.—A provider that redeems a voucher issued by the eligible entity shall receive periodic payments from the eligible entity during the 12-month period that the voucher is in effect upon demonstration of the provision of significant services and activities related to the provision of mentoring services to the child on whose behalf the voucher is issued.

(6) PROVIDER REQUIREMENTS.—In order to participate in the demonstration project, a provider of mentoring services shall—

(A) meet the quality standards identified by the eligible entity in accordance with paragraph (1);

(B) agree to accept a voucher meeting the requirements of paragraph (5) as payment for the provision of mentoring services to a child on whose behalf the voucher is issued;

(C) demonstrate that the provider has the capacity, and has or will have nonfederal resources, to continue supporting the provision of mentoring services to the child on whose behalf the voucher is issued, as appropriate, after the conclusion of the 12-month period during which the voucher is in effect; and

(D) if the provider is a recipient of a grant under this section, demonstrate that the provider has exhausted its capacity for providing mentoring services under the grant.

(7) 3-YEAR PERIOD; OPTION FOR RENEWAL.—

(A) IN GENERAL.—A cooperative agreement awarded under this subsection shall be effective for a 3-year period.

(B) RENEWAL.—The cooperative agreement may be renewed for an additional period, not to exceed 2 years and subject to any conditions that the Secretary may specify that are not inconsistent with the requirements of this subsection or subsection (i)(2)(B), if the Secretary determines that the entity has satisfied the requirements of the agreement and evaluations of the service delivery demonstration project demonstrate that the voucher service delivery method is effective in providing mentoring services to children of prisoners.

(8) INDEPENDENT EVALUATION AND REPORT.—

(A) IN GENERAL.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

(B) DEADLINE FOR REPORT.—Not later than 90 days after the end of the second fiscal year in which the demonstration project is conducted under this subsection, the Secretary shall submit the report required under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include—

(i) the number of children as of the end of such second fiscal year who received vouchers for mentoring services; and

(ii) any conclusions regarding the use of vouchers for the delivery of mentoring services for children of prisoners.

(9) NO EFFECT ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—

A voucher provided to a family under the demonstration project conducted under this subsection shall be disregarded for purposes of determining the eligibility for, or the amount of, any other Federal or federally-supported assistance for the family.

(h) INDEPENDENT EVALUATION; REPORTS.—

(1) INDEPENDENT EVALUATION.—The Secretary shall conduct by grant, contract, or cooperative agreement an independent evaluation of the programs authorized under this section, including the service delivery demonstration project authorized under subsection (g).

(2) REPORTS.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit a report to the Congress that includes the following:

(A) The characteristics of the mentoring programs funded under this section.

(B) The plan for implementation of the service delivery demonstration project authorized under subsection (g).

(C) A description of the outcome-based evaluation of the programs authorized under this section that the Secretary is conducting as of that date of enactment and how the evaluation has been expanded to include an evaluation of the demonstration project authorized under subsection (g).

(D) The date on which the Secretary shall submit a final report on the evaluation to the Congress.

(i) AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS OF CERTAIN AMOUNTS.—

(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2007 through 2011.

(2) RESERVATIONS.—The Secretary shall reserve 4 percent of the amount appropriated for each fiscal year under paragraph (1) for expenditure by the Secretary for research, technical assistance, and evaluation related to programs under this section.

(A) RESEARCH, TECHNICAL ASSISTANCE, AND EVALUATION.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

(B) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(i) IN GENERAL.—Subject to clause (ii), for purposes of awarding a cooperative agreement to conduct the service delivery demonstration project authorized under subsection (g), the Secretary shall reserve not more than—

(I) \$5,000,000 of the amount appropriated under paragraph (1) for the first fiscal year in which funds are to be awarded for the agreement;

(II) \$10,000,000 of the amount appropriated under paragraph (1) for the second fiscal year in which funds are to be awarded for the agreement; and

(III) \$15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

(ii) **ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.**—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least \$25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.

### **SUBPART 3—COMMON PROVISIONS<sup>18</sup>**

#### **SEC. 440. [42 U.S.C. 629m] DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.**

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

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

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

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

(1) incorporate a widely-accepted, nonproprietary, searchable, computer-readable format, such as the Extensible Markup Language;

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

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

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

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

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

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

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<sup>18</sup> P.L. 112-34 added sec. 440. Sec. 50771 of P.L. 115-123 revised sec. 440.

## **PART E—FEDERAL PAYMENTS FOR FOSTER CARE, PREVENTION, AND PERMANENCY<sup>19</sup>**

### **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, kinship guardianship assistance, and prevention services or programs specified in section 471(e)(1)<sup>20</sup>, there are authorized to be appropriated for each fiscal year 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)<sup>21</sup> provides for foster care maintenance payments in accordance with section 472, adoption assistance in accordance with section 473, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under subtitle I of title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no

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<sup>19</sup> Sec 50733(a) of P.L. 115-123 revised the name of part E. Previously, it was “Federal Payments for Foster Care and Adoption Assistance.”

<sup>20</sup> Sec. 50733(b) of P.L. 115-123 revised sec. 470 to add references to kinship guardianship assistance and prevention services.

<sup>21</sup> Sec. 50711(a) of P.L. 115-123 revised 471(a)(1). Effective 10/1/18 (section 50734(a)(1) of P.L. 115-123).



authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the “State agency”) will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) subject to subsection (c), provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that the State agency will—

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

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

(C)<sup>22</sup> not later than—

(i) 1 year after the date of enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with State and local law enforcement, juvenile justice, health care providers, education agencies, and organizations with experience in dealing with at-risk youth, policies and procedures (including relevant training for caseworkers) for identifying, documenting in agency records, and determining appropriate services with respect to—

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<sup>22</sup> Sec. 101 of P.L. 113-183 added sec. 471(a)(9)(C).

(I) any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk or being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under section 475(8) of this Act, and youth who are not in foster care but are receiving services under section 477 of this Act); and

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

(ii) 2 years after such date of enactment, demonstrate to the

Secretary that the State agency is implementing the policies and procedures referred to in clause (i).

(10)<sup>23</sup> provides—

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

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

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

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

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<sup>23</sup> Sec. 111 of P.L. 113-183 revised sec. 471(a)(10).

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) provides that—

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an interstate placement) and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that—

(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) the parent has—

(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or

territorial jurisdiction of the United States) of another child of the parent;

(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)—

(i) a permanency hearing (as described in section 475(5)(C)), which considers in-State and out-of-State permanent placement options for the child, shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-State and out-of-State placements may be made concurrently with reasonable efforts of the type described in subparagraph (B);

(16)<sup>24</sup> provides for the development of a case plan (as defined in section 475(1) and in accordance with the requirements of section (475A) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in sections 475(5) and 475A with respect to each such child;

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A and plan approved under part D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part;

(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved;

(19) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards;

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<sup>24</sup> Sec. 112 of P.L. 113-183 revised sec. 471(a)(16).

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—

(i) in any case involving a child on whose behalf such payments are to be made in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case involving a child on whose behalf such payments are to be made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted;

(B) provides that the State shall—

(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

(ii) comply with any request described in clause (i) that is received from another State; and

(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in subparagraph (B) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part; and

(D)<sup>25</sup> provides procedures for any child care institution, including a group home, residential treatment center, shelter, or other congregate care setting, to conduct criminal record checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code), and checks described in subparagraph (B) of this paragraph, on any adult working child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, unless the State reports to the Secretary the alternative criminal records checks and child abuse registry checks the State conducts on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, and why the checks specified in this subparagraph are not appropriate for the State.

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

(A) such coverage may be provided through 1 or more State medical assistance programs;

(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program;

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children;

(23) provides that the State shall not—

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<sup>25</sup> Sec. 50745(a) of P.L. 115-123 added paragraph (D) to sec. 471(a)(20) and revised the citations in paragraphs (A) and (C). Effective 10/1/18 (sec. 50746(c) of P.L. 115-123). If the provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires (sec. 50746(d) of P.L. 115-123). Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the first regular session of the legislature after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sec. 50746(a)(2) of P.L. 115-123).

(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness,

(24)<sup>26</sup> includes a certification that, before a child in foster care under the responsibility of the State is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child that the preparation will be continued, as necessary, after the placement of the child and that the preparation shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities;

(25)<sup>27</sup> provides that the State shall have in effect procedures for the orderly and timely interstate placement of children, which, in the case of a State other than the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa, not later than October 1, 2027, shall include the use of an electronic interstate case-processing system; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph;

(26) provides that—

(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract—

(I) conduct and complete the study; and

(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

(ii) in the case of a home study begun on or before September 30, 2008, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

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<sup>26</sup> Sec. 111 of P.L. 113-183 revised sec. 471(a)(24).

<sup>27</sup> Sec 50722(a) of P.L. 115-123 revised sec. 471(a)(25). Effective 10/1/18.

(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A);

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 472 on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 473(d);

(29)<sup>28</sup> provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 473(d) to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary

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<sup>28</sup> Sec. 209 of P.L. 113-183 revised sec. 471(a)(29).



school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is—

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;

(31) provides that reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

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

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

(34)<sup>29</sup> provides that, for each child or youth described in paragraph (9)(C)(i)(I), the State agency shall—

(A) not later than 2 years after the date of the enactment of this paragraph, report immediately, and in no case later than 24 hours after receiving information on children or youth who have been identified as being a sex trafficking victim, to the law enforcement authorities; and

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<sup>29</sup> Sec. 102 of P.L. 113-183 added sec. 471(a)(34).

(B) not later than 3 years after such date of enactment and annually thereafter, report to the Secretary the total number of children and youth who are sex trafficking victims;

(35)<sup>30</sup> provides that—

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

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

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

(iii) determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in section 475(9)(A)); and

(iv) reporting such related information as required by the Secretary; and

(B) not later than 2 years after such date of enactment, for each child and youth described in paragraph (9)(C)(i)(I) of this subsection, the State agency shall report immediately, and in no case later than 24 hours after receiving, information on missing or abducted children to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code, and to the National Center for Missing and Exploited Children.

(36)<sup>31</sup> provides that, not later than April 1, 2019, the State shall submit to the Secretary information addressing—

(A) whether the State licensing standards are in accord with model standards identified by the Secretary, and if not, the reason for the specific deviation and a description as to why having a standard that is reasonably in accord with the corresponding national model standards is not appropriate for the State;

(B) whether the State has elected to waive standards established in 471(a)(10)(A) for relative foster family homes (pursuant to waiver authority provided by 471(a)(10)(D)), a description of which standards the State most commonly waives, and if the State has not elected to waive the standards, the reason for not waiving these standards;

(C) if the State has elected to waive standards specified in subparagraph (B), how caseworkers are trained to use the waiver authority and whether the

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<sup>30</sup> Sec. 104 of P.L. 113-183 added sec. 471(a)(35).

<sup>31</sup> Sec. 50731(b) of P.L. 115-123 added sec. 471(a)(36). Effective upon enactment (2/9/18). Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the plan requirements imposed by the amendment. The "delayed effective date" is defined as the first day of the first calendar quarter after the first regular session of the legislature after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sec. 50734(b)(1) of P.L. 115-123). Delay permitted when HHS determines that an Indian tribe, tribal organization, or consortium with a title IV-E plan under section 479B of the Act, a cooperative agreement, or contract requires additional time as necessary to comply with specific amendments to the Act (sec. 50734(b)(2) of P.L. 115-123).

State has developed a process or provided tools to assist caseworkers in waiving nonsafety standards per the authority provided in 471(a)(10)(D) to quickly place children with relatives; and

(D) a description of the steps the State is taking to improve caseworker training or the process, if any; and

(37)<sup>32</sup> includes a certification that, in response to the limitation imposed under section 472(k) with respect to foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State's juvenile justice system.

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

(c) Use of Child Welfare Records in State Court Proceedings.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B of this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.

(d)<sup>33</sup> ANNUAL REPORTS BY THE SECRETARY ON NUMBER OF CHILDREN AND YOUTH REPORTED BY STATES TO BE SEX TRAFFICKING VICTIMS.—Not later than 4 years after the date of the enactment of this subsection and annually thereafter, the Secretary shall report to the Congress and make available to the public on the Internet website of the Department of Health and Human Services the number of children and youth reported in accordance with subsection (a)(34)(B) of this section to be sex trafficking victims (as defined in section 475(9)(A)).

(e)<sup>34</sup> PREVENTION AND FAMILY SERVICES AND PROGRAMS.—

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

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

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

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<sup>32</sup> Sec. 50741(d)(1) of P.L. 115-123 added sec. 471(a)(37). Effective 10/1/19. Title IV-E agencies may request a delayed effective date not to exceed two years and if approved, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.

<sup>33</sup> Sec. 102 of P.L. 113-183 added sec. 471(d).

<sup>34</sup> Sec. 50711(a)(2) of P.L. 115-123 added 471(e). Effective 10/1/18.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) TRAUMA-INFORMED.—The services or programs to be provided to or on behalf of a child are provided under an organizational structure and

treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.

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

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

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

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

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

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

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

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

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

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

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

(iv) **SUPPORTED PRACTICE.**—A practice shall be considered to be a 'supported practice' if—

(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated

measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that—

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

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

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

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

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

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

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

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

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

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

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

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

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

**(E) OUTCOME ASSESSMENT AND REPORTING.**—The State shall collect and report to the Secretary the following information with respect to each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided

during a 12-month period beginning on the date the child is determined by the State to be a child described in paragraph (2):

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

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

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

(5) STATE PLAN COMPONENT.—

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

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

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

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

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

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

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

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

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

(V) how each service or program provided will be evaluated through a well-designed and rigorous process, which

may consist of an ongoing, cross-site evaluation approved by the Secretary.

(iv) A description of the consultation that the State agencies responsible for administering the State plans under this part and part B engage in with other State agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services, including community-based organizations, in order to foster a continuum of care for children described in paragraph (2) and their parents or kin caregivers.

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

(vi) A description of how the services or programs specified in paragraph (1) that are provided for or on behalf of a child and the parents or kin caregivers of the child will be coordinated with other child and family services provided to the child and the parents or kin caregivers of the child under the State plans in effect under subparts 1 and 2 of part B.

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

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

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

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

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

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

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

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



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

(6) PREVENTION SERVICES MEASURES.—

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

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

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

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

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

(ii) taking into account State differences in the price levels of consumption goods and services using the most recent regional price parities published by the Bureau of Economic Analysis of the Department of Commerce or such other data as the Secretary determines appropriate.

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

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

(A) IN GENERAL.—If a State elects to provide services and programs specified in paragraph (1) for a fiscal year, the State foster care prevention expenditures for the fiscal year shall not be less than the amount of the expenditures for fiscal year 2014 (or at the option of a State described in subparagraph (E), fiscal year 2015 or fiscal year 2016 (whichever the State elects)).

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

(i) TANF; IV–B; SSBG.—State expenditures for foster care prevention services and activities under the State program funded under

part A (including from amounts made available by the Federal Government), under the State plan developed under part B (including any such amounts), or under the Social Services Block Grant Programs under subtitle A of title XX (including any such amounts).

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

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

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

(E) STATE DESCRIBED.—For purposes of subparagraph (A), a State is described in this subparagraph if the population of children in the State in 2014 was less than 200,000 (as determined by the Bureau of the Census).

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

(9) ADMINISTRATIVE COSTS.—Expenditures described in section 474(a)(6)(B)—

(A) shall not be eligible for payment under subparagraph (A), (B), or (E) of section 474(a)(3); and

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

(10) APPLICATION.—

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

(B) CANDIDATES IN KINSHIP CARE.—A child described in paragraph (2) for whom such services or programs under this subsection are provided for

more than 6 months while in the home of a kin caregiver, and who would satisfy the AFDC eligibility requirement of section 472(a)(3)(A)(ii)(II) but for residing in the home of the caregiver for more than 6 months, is deemed to satisfy that requirement for purposes of determining whether the child is eligible for foster care maintenance payments under section 472.

## **FOSTER CARE MAINTENANCE PAYMENTS PROGRAM**

SEC. 472. [42 U.S.C. 672] (a) IN GENERAL.—

(1) **ELIGIBILITY.**—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) **REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.**—The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—

(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

(B) the child's placement and care are the responsibility of—

(i) the State agency administering the State plan approved under section 471; or

(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

(iii) an Indian tribe or a tribal organization (as defined in section 479B(a)) or a tribal consortium that has a plan approved under section 471 in accordance with section 479B; and

(C)<sup>35</sup> the child has been placed in a foster family home, with a parent residing in a licensed residential family-based treatment facility, but only to the extent permitted under subsection (j), or in a child-care institution, but only to the extent permitted under subsection (k).

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<sup>35</sup> Sec 50712(a)(1) and 50741(a)(1) revised sec. 472(a)(2)(C). Revisions to add language relating to subsections (j) are effective 10/1/18 (sec. 50734 of P.L. 115-123). Revisions to add language relating to subsection (k) are effective 10/1/19; title IV-E agencies may request a delayed effective date not to exceed two years and if so, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (sec. 50746(b) of P.L. 115-123).

(3) AFDC ELIGIBILITY REQUIREMENT.—

(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section 475(4)).

(c)<sup>36</sup> DEFINITIONS.--For the purposes of this part:

(1) FOSTER FAMILY HOME.--

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<sup>36</sup> Sec. 50741(b) of P.L. 115-123 revised sec. 472(c). Effective 10/1/19. Title IV-E agencies may request a delayed effective date not to exceed two years and if approved, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (sec. 50746(b) of P.L. 115-123).

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

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

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

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

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

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

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

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

(ii) To allow siblings to remain together.

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

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

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

(2) CHILD-CARE INSTITUTION.--

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

(B) SUPERVISED SETTINGS.—In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations.

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

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(b)(8).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child’s best interests.

(h)(1) For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of subtitle I of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child’s minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or childcare institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a

foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

**(j)<sup>37</sup> CHILDREN PLACED WITH A PARENT RESIDING IN A LICENSED RESIDENTIAL FAMILY-BASED TREATMENT FACILITY FOR SUBSTANCE ABUSE.—**

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

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

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

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

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

**(k)<sup>38</sup> LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—**

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

<sup>37</sup> Sec. 50712(a)(2) of P.L. 115-123 added 472(j). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

<sup>38</sup> Sec. 50741(a)(1) of P.L. 115-123 added sec. 472(k). Effective 10/1/19 (sec. 50746(b) of P.L. 115-123).

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

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

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

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

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

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

(D) A setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims, in accordance with section 471(a)(9)(C).

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

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

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

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

(A) has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to



implement the treatment identified for the child by the assessment of the child required under section 475A(c);

(B) subject to paragraphs (5) and (6), has registered or licensed nursing staff and other licensed clinical staff who—

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

(ii) are on-site according to the treatment model referred to in subparagraph (A); and

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

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

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

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

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

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

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

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

(iii) The Council on Accreditation (COA).

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

(5) ADMINISTRATIVE COSTS.—The prohibition in paragraph (1) on Federal payments under section 474(a)(1) shall not be construed as prohibiting Federal payments for administrative expenditures incurred on behalf of a child placed in a child-care institution and for which payment is available under section 474(a)(3).

(6) RULE OF CONSTRUCTION.—The requirements in paragraph (4)(B) shall not be construed as requiring a qualified residential treatment program to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship.

## **ADOPTION AND GUARDIANSHIP 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)(A) For purposes of paragraph (a)(1)(B)(ii), a child meets the requirements of this paragraph if –

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child –

(I)(aa)(AA) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(BB) met the requirements of section 472(a)(3) with respect to the home referred to in subitem (AA) of this item;

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

(cc) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

(II) has been determined by the State, pursuant to subsection (c)(1) of this section, to be a child with special needs; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child –

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to--

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or  
(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to--

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;  
or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs.

(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child –

(I) meets the requirements of subparagraph (A)(i)(II);

(II) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(III) is available for adoption because—

(aa) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(bb) the child's adoptive parents have died; and

(IV) fails to meet the requirements of subparagraph (A)(i) but would meet such requirements if—

(aa) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(bb) the prior adoption were treated as never having occurred; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died.

(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 471(a)(28), the

placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child shall be considered never to have been made.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

(i) who has attained —

(I) 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii); or

(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term "nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any applicable child for a fiscal year that--

(i) would be considered a child with special needs under subsection (c)(2);

(ii) is not a citizen or resident of the United States; and

(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for an applicable child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the parents described in subparagraph (A).

(8)(A)<sup>39</sup> A State shall calculate the savings (if any) resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, using a methodology specified by the Secretary or an alternate methodology proposed by the State and approved by the Secretary.

(B) A State shall annually report to the Secretary—

(i) the methodology used to make the calculation described in subparagraph (A), without regard to whether any savings are found;

(ii) the amount of any savings referred to in subparagraph (A); and

(iii) how such savings are spent, accounting for and reporting the spending separately from any other spending reported to the Secretary under part B or this part.

(C) The Secretary shall make all information reported pursuant to subparagraph (B) available on the website of the Department of Health and Human Services in a location easily accessible to the public.

(D)(i) A State shall spend an amount equal to the amount of the savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, to provide to children of families any service that may be provided under part B or this part. A State shall spend not less than 30 percent of any such savings on post-adoption services, post-guardianship services, and services to support and sustain positive permanency outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least 2/3 of the spending by the State to comply with such 30 percent requirement being spent on post-adoption and post-guardianship services.

(ii) Any State spending required under clause (i) shall be used to supplement, not supplant, any Federal or non-Federal funds used to provide any service under part B or this part.

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

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<sup>39</sup> Sec. 206 of P.L. 113-183 revised sec. 471(a)(8).

(2) For purposes of subtitle I of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child-

(A)(i) who is a child described in subsection (a)(2), and

(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),

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

(C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

(c) FOR PURPOSES OF THIS SECTION—

(1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless

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

(B) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX; or

(2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;

(B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the

child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under title XIX; or

(ii) the child meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; and

(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN—

(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT—

(A) IN GENERAL.—In order to receive payments under section 474(a)(5), a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) MINIMUM REQUIREMENTS.—The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000.

(C) INTERSTATE APPLICABILITY.—The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) NO EFFECT ON FEDERAL REIMBURSEMENT.—Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) LIMITATIONS ON AMOUNT OF KINSHIP GUARDIANSHIP

ASSISTANCE PAYMENT.—A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—

(A) IN GENERAL- A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.

(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) TREATMENT OF SIBLINGS.—With respect to a child described in subparagraph (A) whose sibling or siblings are not so described--

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(C)<sup>40</sup> ELIGIBILITY NOT AFFECTED BY REPLACEMENT OF GUARDIAN WITH A SUCCESSOR GUARDIAN.— In the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection shall not be affected by reason of the replacement of the relative guardian with a successor legal guardian named in the kinship guardianship assistance agreement referred to in paragraph (1) (including in any amendment to the agreement), notwithstanding subparagraph (A) of this paragraph and section 471(a)(28).

(e) APPLICABLE CHILD DEFINED-

(1) ON THE BASIS OF AGE-

(A) IN GENERAL- Subject to paragraphs (2) and (3), in this section, the term 'applicable child' means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

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<sup>40</sup> Sec. 207 of P.L. 113-183 added sec. 473(d)(3)(C).



(B)<sup>41</sup> APPLICABLE AGE- For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

<b>In the case of fiscal year:</b>	<b>The applicable age is:</b>
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017 through 2023	2
2024	2 (or in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age)
2025 or thereafter	any age

(2) EXCEPTION FOR DURATION IN CARE.—Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) EXCEPTION FOR MEMBER OF A SIBLING GROUP.—Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child—

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).

## **ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENTS<sup>42</sup>**

<sup>41</sup> Sec. 50781(a) of P.L. 115-123 revised the ages in the chart of sec. 473(e)(1)(B). Effective as if enacted on 1/1/18 (sec. 50781(b) of P.L. 115-123).

<sup>42</sup> Title II, Subtitle A of P.L. 113-183 revised sec. 473A to be the *Adoption and Legal Guardianship Incentive Payments* program. The program was formerly the *Adoption Incentive Payments* program. P.L. 113-183 revised award categories, amounts, calculation, and base rate.

Sec. 473A. [42 U.S.C. 673b] (a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption and legal guardianship incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

(b) INCENTIVE-ELIGIBLE STATE.—A State is an incentive-eligible State for a fiscal year if—

- (1) the State has a plan approved under this part for the fiscal year;
- (2) the State is in compliance with subsection (c) for the fiscal year;
- (3) the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and
- (4) the fiscal year is any of fiscal years 2016 through 2020.

(c) DATA REQUIREMENTS.—

(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and

(B) for each succeeding fiscal year that precedes the fiscal year.

(2) DETERMINATION OF RATES OF ADOPTIONS AND GUARDIANSHIPS BASED ON AFCARS DATA.—The Secretary shall determine each of the rates required to be determined under this section with respect to a State and a fiscal year, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year, and, with respect to the determination of the rates related to foster child guardianships, on the basis of information reported to the Secretary under paragraph (12) of subsection (g).

(3) NO WAIVER OF AFCARS REQUIREMENTS.—This section shall not be construed to alter or affect any requirement of section 479 or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

(d) ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT.—

(1) In general.—Except as provided in paragraph (2), the adoption and legal guardianship incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

(A) \$5,000, multiplied by the amount (if any) by which—

(i) the number of foster child adoptions in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child adoptions for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year;

(B) \$7,500, multiplied by the amount (if any) by which—

(i) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 9 years of age but not 14 years of age; and

(C) \$10,000, multiplied by the amount (if any) by which—

(i) the number of older child adoptions and older foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of older child adoptions and older foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 14 years of age; and

(D) \$4,000, multiplied by the amount (if any) by which—

(i) the number of foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

**(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—**

For any fiscal year, if the total amount of adoption incentive payments otherwise payable under 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 and legal guardianship 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 and legal guardianship incentive payments otherwise payable under this section for the fiscal year.

**(3) INCREASED ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENT FOR TIMELY ADOPTIONS.—**

(A) IN GENERAL.—If for any of fiscal years 2013 through 2015, the total amount of adoption and legal guardianship incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year, then, from the remainder of the amount appropriated for the fiscal year that is not required for such payments (in this paragraph referred to as the ‘timely adoption award pool’), the Secretary shall

increase the adoption incentive payment determined under paragraph (1) for each State that the Secretary determines is a timely adoption award State for the fiscal year by the award amount determined for the fiscal year under subparagraph (C).

(B) **TIMELY ADOPTION AWARD STATE DEFINED.**—A State is a timely adoption award State for a fiscal year if the Secretary determines that, for children who were in foster care under the supervision of the State at the time of adoptive placement, the average number of months from removal of children from their home to the placement of children in finalized adoptions is less than 24 months.

(C) **AWARD AMOUNT.**—For purposes of subparagraph (A), the award amount determined under this subparagraph with respect to a fiscal year is the amount equal to the timely adoption award pool for the fiscal year divided by the number of timely adoption award States for the fiscal year.

(e) **36-MONTH AVAILABILITY OF INCENTIVE PAYMENTS.**—Payments to a State under this section in a fiscal year shall remain available for use by the State for the 36-month period beginning with the month in which the payments are made.

(f) **LIMITATIONS ON USE OF INCENTIVE PAYMENTS.**—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 424, 434, and 474, and shall use the amount to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or E.

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

(1) **FOSTER CHILD ADOPTION RATE.**—The term ‘foster child adoption rate’ means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child adoptions finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) **BASE RATE OF FOSTER CHILD ADOPTIONS.**—The term ‘base rate of foster child adoptions’ means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child adoption rate for the State for the then immediately preceding fiscal year; or

(B) the foster child adoption rate for the State for the average of the then immediately preceding 3 fiscal years.

(3) **FOSTER CHILD ADOPTION.**—The term ‘foster child adoption’ means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

(4) **PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP RATE.**—The term ‘pre-adolescent child adoption and pre-adolescent foster child guardianship rate’ means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 9 years of age but not 14 years of age.

(5) **BASE RATE OF PRE-ADOLESCENT CHILD ADOPTIONS AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIPS.**—The term ‘base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships’ means, with respect to a State and a fiscal year, the lesser of—

(A) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(6) **PRE-ADOLESCENT CHILD ADOPTION AND PRE-ADOLESCENT FOSTER CHILD GUARDIANSHIP.**—The term ‘pre-adolescent child adoption and pre-adolescent foster child guardianship’ means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 9 years of age but not 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(7) **OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP RATE.**—The term ‘older child adoption and older foster child guardianship rate’ means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of older child adoptions and older foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 14 years of age.

(8) **BASE RATE OF OLDER CHILD ADOPTIONS AND OLDER FOSTER CHILD GUARDIANSHIPS.**—The term ‘base rate of older child adoptions and older foster child guardianships’ means, with respect to a State and a fiscal year, the lesser of—

(A) the older child adoption and older foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the older child adoption and older foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(9) **OLDER CHILD ADOPTION AND OLDER FOSTER CHILD GUARDIANSHIP.**—The term ‘older child adoption and older foster child guardianship’ means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 473(a) with respect to the child.

(10) FOSTER CHILD GUARDIANSHIP RATE.—The term ‘foster child guardianship rate’ means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child guardianships occurring in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(11) BASE RATE OF FOSTER CHILD GUARDIANSHIPS.—The term ‘base rate of foster child guardianships’ means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(12) FOSTER CHILD GUARDIANSHIP.—The term ‘foster child guardianship’ means, with respect to a State, the exit of a child from foster care under the responsibility of the State to live with a legal guardian, if the State has reported to the Secretary—

(A) that the State agency has determined that—

(i) the child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;

(ii) being returned home or adopted are not appropriate permanency options for the child;

(iii) the child demonstrates a strong attachment to the prospective legal guardian, and the prospective legal guardian has a strong commitment to caring permanently for the child; and

(iv) if the child has attained 14 years of age, the child has been consulted regarding the legal guardianship arrangement; or

(B) the alternative procedures used by the State to determine that legal guardianship is the appropriate option for the child.

(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For grants under subsection (a), there are authorized to be appropriated to the Secretary—

(A) \$20,000,000 for fiscal year 1999;

(B) \$43,000,000 for fiscal year 2000;

(C) \$20,000,000 for each of fiscal years 2001 through 2003, and

(D) \$43,000,000 for each of fiscal years 2004 through 2021.

(2) AVAILABILITY.—Amounts appropriated under paragraph (1), or under any other law for grants under subsection (a), are authorized to remain available until expended, but not after fiscal year 2021.

(i) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

(2) **DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.**—The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

- (A) The development of best practice guidelines for expediting termination of parental rights.
- (B) Models to encourage the use of concurrent planning.
- (C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.
- (D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.
- (E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.
- (F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

(3) **TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS.**—Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

(4) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 2004 through 2006.

## **PAYMENTS TO STATES; ALLOTMENTS TO STATES**

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

- (1) subject to subsections (j) and (k) of section 472<sup>43</sup> an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

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<sup>43</sup> Sec 50712(b) and 50741(a)(2) revised sec. 474(a)(1). Revisions to add language relating to subsections (j) are effective 10/1/18 (sec. 50734 of P.L. 115-123). Revisions to add language relating to subsection (k) are effective 10/1/19. Title IV-E agencies may request a delayed effective for subsection (k) date not to exceed two years and if approved, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (sec. 50746(b) of P.L. 115-123).

(2) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(3) subject to section 472(i) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective parents or relative guardians, the members of the staff of State-licensed or State-approved child care institutions providing care, or State-licensed or State-approved child welfare agencies providing services, to foster or adoptive children receiving assistance under this part, and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts, in ways that increase the ability of such current or prospective parents, guardians, staff members, institutions, attorneys and advocates to provide support and assistance to foster and adopted children, and children living with relative guardians whether incurred directly by the State or by contract,

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that



collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus

(4) an amount equal to the amount (if any) by which—

(A) the lesser of—

(i) 80 percent of the amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); or

(ii) the amount allotted to the State under section 477(c)(1) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year; exceeds

(B) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; plus

(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 473(d) pursuant to kinship guardianship assistance agreements; plus

(6)<sup>44</sup> subject to section 471(e)—

(A) for each quarter—

(i) subject to clause (ii)—

(I) beginning after September 30, 2019, and before October 1, 2026, an amount equal to 50 percent of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C); and

(II) beginning after September 30, 2026, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 471(e)(1) that are provided in accordance with promising, supported, or well-supported practices that meet the

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<sup>44</sup> Sec. 50711(c) of P.L. 115-123 added sec. 474(a)(6). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

applicable criteria specified for the practices in section 471(e)(4)(C) (or, with respect to the payments made during the quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the ‘tribal FMAP’) if the Indian tribe, tribal organization, or tribal consortium made the payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); except that

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

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

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

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

(7)<sup>45</sup> an amount equal to 50 percent of the amounts expended by the State during the quarter as the Secretary determines are for kinship navigator programs that meet the requirements described in section 427(a)(1) and that the Secretary determines are operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C), without regard to whether the expenditures are incurred on behalf of children who are, or are potentially, eligible for foster care maintenance payments under this part.

(b)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on

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<sup>45</sup> Sec. 50713 of P.L. 115-123 added sec. 474(a)(7). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with subsection (a), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

(I) upon completion of the review, if it is determined that the claim is not allowable; or

(II) on the basis of findings of an audit or financial management review.

(c) **AUTOMATED DATA COLLECTION EXPENDITURES.**—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated paragraph (18) or (23) of section 471(a) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year,

until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent

(2) Any other entity which is in a State that receives funds under this part and which violates paragraph (18) or (23) of section 471(a) during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(e) **DISCRETIONARY GRANTS FOR EDUCATIONAL AND TRAINING VOUCHERS FOR YOUTHS AGING OUT OF FOSTER CARE.**—From amounts appropriated pursuant to section 477(h)(2), the Secretary may make a grant to a State with a plan approved under this part, for a calendar quarter, in an amount equal to the lesser of—

(1) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in section 477(a)(6); or

(2) the amount, if any, allotted to the State under section 477(c)(3) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this subsection for such purposes for all prior quarters in the fiscal year.

(f)(1) If the Secretary finds that a State has failed to submit to the Secretary data, as required by regulation, for the data collection system implemented under section 479, the Secretary shall, within 30 days after the date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

(A) 1/6 of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this

part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

(B) 1/4 of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.

(g) For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1130, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.

## DEFINITIONS

SEC. 475. [42 U.S.C. 675] As used in this part or part B of this title:

(1)<sup>46</sup> The term "case plan" means a written document which meets the requirements of section 475A and includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

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

(C) The health and education records of the child, including the most recent information available regarding—

- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;

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<sup>46</sup> Secs. 112 and 113 of P.L. 113-183 revised sec. 475(1), (1)(B) and (D).

(iv) a record of the child's immunizations;

(v) the child's known medical problems;

(vi) the child's medications; and

(vii) any other relevant health and education information

concerning the child determined to be appropriate by the State agency.

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

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including--

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

(i) a child placed in a foster family home or child care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

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

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which-

(i) if the child has been placed in a foster family home or child care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on

the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,

(B)<sup>47</sup> the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);

(C) with respect to each such child,

(i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or only in the case of a child who has attained 16 years of age<sup>48</sup> (in cases where the State agency has documented to the State court a compelling reason for determining, as of the date of the hearing, that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement subject to section 475A(a), in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out of State placement continues to be appropriate

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<sup>47</sup> Sec. 112 of P.L. 113-183 revised sec. 475(5)(B).

<sup>48</sup> Sec. 112 of P.L. 113-183 limited APPLA to ages 16+ and made other revisions to sec. 475(5)(C)(i).



and in the best interests of the child, and, in the case of a child who has attained age 14, the services needed to assist the child to make the transition from foster care to a successful adulthood;

(ii) procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents;

(iii)<sup>49</sup> procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful adulthood, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; and

(iv)<sup>50</sup> if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless-

(i) at the option of the State, the child is being cared for by a relative;

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<sup>49</sup> Sec. 113 of P.L. 113-183 revised sec. 475(5)(C)(iii).

<sup>50</sup> Sec. 113 of P.L. 113-183 added sec. 475(5)(C)(iv).

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child;

(F) a child shall be considered to have entered foster care on the earlier of—

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home; 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 a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect; and

(I) each child in foster care under the responsibility of the State who has attained 14<sup>51</sup> years of age receives without cost a copy of any consumer report (as defined in section 603(d) of the Fair Credit Reporting Act) pertaining to the child each year until the child is discharged from care, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report, and if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6

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<sup>51</sup> Sec. 113 of P.L. 113-183 changed the age from 16 to 14.

months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records and a driver's license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005<sup>52</sup>, and any official documentation necessary to prove that the child was previously in foster care<sup>53</sup>.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term 'legal guardianship' means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term 'legal guardian' means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term "child" means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 473 if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State

may elect; and

(iv) who is—

(I) completing secondary education or a program leading to an equivalent credential;

(II) enrolled in an institution which provides post-secondary or vocational education;

(III) participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

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<sup>52</sup> Sec. 114 of P.L. 113-183 added the language about providing documents.

<sup>53</sup> Sec. 50753(e) of P.L. 115-123 added the language about official documentation proving the child was in foster care.

(9)<sup>54</sup> The term ‘sex trafficking victim’ means a victim of—  
(A) sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000<sup>55</sup>); or  
(B) a severe form of trafficking in persons described in section 103(9)(A) of such Act<sup>56</sup>.

(10)<sup>57</sup>(A) The term ‘reasonable and prudent parent standard’ means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

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

(11)<sup>58</sup>(A) The term ‘age or developmentally-appropriate’ means—

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

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

(B) In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this part or part B shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school.

(12)<sup>59</sup> The term ‘sibling’ means an individual who satisfies at least one of the following conditions with respect to a child:

(A) The individual is considered by State law to be a sibling of the child.

(B) The individual would have been considered a sibling of the child under State law but for a termination or other disruption of parental rights, such as the death of a parent.

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<sup>54</sup> Sec. 101 of P.L. 113-183 added this definition.

<sup>55</sup> The term “sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. (22 U.S.C. 7102(10))

<sup>56</sup> The term “severe forms of trafficking in persons” means—(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. (22 U.S.C. 7102(9)(A))

<sup>57</sup> Sec. 111 of P.L. 113-183 added sec. 475(10).

<sup>58</sup> Sec. 111 of P.L. 113-183 added sec. 475(11).

<sup>59</sup> Sec. 209 of P.L. 113-183 added sec. 475(12).

(13)<sup>60</sup> The term ‘child who is a candidate for foster care’ means, a child who is identified in a prevention plan under section 471(e)(4)(A) as being at imminent risk of entering foster care (without regard to whether the child would be eligible for foster care maintenance payments under section 472 or is or would be eligible for adoption assistance or kinship guardianship assistance payments under section 473) but who can remain safely in the child's home or in a kinship placement as long as services or programs specified in section 471(e)(1) that are necessary to prevent the entry of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.

## **ADDITIONAL CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS**

**SEC. 475A (a)<sup>61</sup> REQUIREMENTS FOR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT.**—In the case of any child for whom another planned permanent living arrangement is the permanency plan determined for the child under section 475(5)(C), the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

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

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

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

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

(i) return home;

(ii) be placed for adoption;

(iii) be placed with a legal guardian; or

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

(3) **DEMONSTRATION OF SUPPORT FOR ENGAGING IN AGE OR DEVELOPMENTALLY-APPROPRIATE ACTIVITIES AND SOCIAL EVENTS.**—At

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<sup>60</sup> Sec. 50711(b) of P.L. 115-123 added sec. 475(13). Effective 10/1/18 (Sec. 50734 of P.L. 115-123).

<sup>61</sup> Sec. 112 of P.L. 113-183 added sec. 475A(a).

each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure that—

(A) the child’s foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(b)<sup>62</sup> LIST OF RIGHTS.—The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 475(5)(I) in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(c)<sup>63</sup> ASSESSMENT, DOCUMENTATION, AND JUDICIAL DETERMINATION REQUIREMENTS FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—In the case of any child who is placed in a qualified residential treatment program (as defined in section 472(k)(4)), the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1)(A) Within 30 days of the start of each placement in such a setting, a qualified individual (as defined in subparagraph (D)) shall—

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

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

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

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

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<sup>62</sup> Sec. 113 of P.L. 113-183 added sec. 475A(b).

<sup>63</sup> Sec. 50742 of P.L. 115-123 added sec. 475A(c). Effective 10/1/19. Title IV-E agencies may request a delayed effective date not to exceed two years and if approved, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (sec. 50746(b) of P.L. 115-123).

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

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

(I) the reasonable and good faith effort of the State to identify and include all the individuals described in clause (ii) on the child's family and permanency team;

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

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

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

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

(VI) the placement preferences of the family and permanency team relative to the assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest; and

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

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

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

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

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

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

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

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

(C) approve or disapprove the placement.

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

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

(A) demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

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

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



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

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

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

## **TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION**

SEC. 476. [42 U.S.C. 676] (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) **TECHNICAL ASSISTANCE AND IMPLEMENTATION SERVICES FOR TRIBAL PROGRAMS.—**

(1) **AUTHORITY.—**The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) **ASSISTANCE PROVIDED.—**

(A) **IN GENERAL.—**The technical assistance and implementation services shall be to—

(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 479B; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 422(b)(9), 471(a)(32), or 477(b)(3)(G); and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to

the Secretary a plan under section 471 to implement a program under this part as authorized by section 479B, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 471 to carry out a program under section 479B, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 475(5), or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) GRANT CONDITION.—

(i) IN GENERAL.—As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 471 to carry out a program under section 479B by the end of the 24-month period described in that subparagraph.

(ii) EXCEPTION.—The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) IMPLEMENTATION AUTHORITY.—The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) APPROPRIATION.—There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

(d)<sup>64</sup> TECHNICAL ASSISTANCE AND BEST PRACTICES, CLEARINGHOUSE, DATA COLLECTION, AND EVALUATIONS RELATING TO PREVENTION SERVICES AND PROGRAMS.—

(1) TECHNICAL ASSISTANCE AND BEST PRACTICES.—The Secretary shall provide to States and, as applicable, to Indian tribes, tribal organizations, and tribal consortia, technical assistance regarding the provision of services and programs described in section 471(e)(1) and shall disseminate best practices with respect to the provision of the services and programs, including how to plan and implement a well-designed and rigorous evaluation of a promising, supported, or well-supported practice.

(2) CLEARINGHOUSE OF PROMISING, SUPPORTED, AND WELL-SUPPORTED PRACTICES.—The Secretary shall, directly or through grants, contracts, or interagency agreements, evaluate research on the practices specified in clauses (iii), (iv), and (v), respectively, of section 471(e)(4)(C), and programs that meet the requirements described in section 427(a)(1), including culturally specific, or location- or population-based adaptations of the practices, to identify and establish a public

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<sup>64</sup> Sec. 50711(d) of P.L. 115-123 added sec. 476(d).

clearinghouse of the practices that satisfy each category described by such clauses. In addition, the clearinghouse shall include information on the specific outcomes associated with each practice, including whether the practice has been shown to prevent child abuse and neglect and reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.

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

- (A) reduces the likelihood of foster care placement;
- (B) increases use of kinship care arrangements; or
- (C) improves child well-being.

(4) REPORTS TO CONGRESS.—

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

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

(5) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to the Secretary \$1,000,000 for fiscal year 2018 and each fiscal year thereafter to carry out this subsection.

(e)<sup>65</sup> EVALUATION OF STATE PROCEDURES AND PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES OF MENTAL ILLNESS OR OTHER CONDITIONS.—The Secretary shall conduct an evaluation of the procedures and protocols established by States in accordance with the requirements of section 422(b)(15)(A)(vii). The evaluation shall analyze the extent to which States comply with and enforce the procedures and protocols and the effectiveness of various State procedures and protocols and shall identify best practices. Not later than January 1, 2020, the Secretary shall submit a report on the results of the evaluation to Congress.

## **JOHN H. CHAFEE FOSTER CARE PROGRAM FOR SUCCESSFUL TRANSITION TO ADULTHOOD<sup>66</sup>**

SEC. 477. [42 U.S.C. 677] (a) PURPOSE.—The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

- (1) to support all youth who have experienced foster care at age 14 or older in their transition to adulthood through transitional services such as assistance in obtaining a

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<sup>65</sup> Sec. 50743(b) of P.L. 115-123 added sec. 476(e). Effective as if enacted on 1/1/18 (sec. 50746 of P.L. 115-123).

<sup>66</sup> Sec. 50753(d) of P.L. 115-123 changed the name of the Chafee program from *the John H. Chafee Foster Care Independence Program*, revised the purposes of paragraphs (a)(1) – (3), removed paragraph (a)(4), and renumbered accordingly.

high school diploma and post-secondary education, career exploration, vocational training, job placement and retention, training and opportunities to practice daily living skills (such as financial literacy training and driving instruction), substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children who have experienced foster care at age 14 or older achieve meaningful, permanent connections with a caring adult;

(3) to help children who have experienced foster care at age 14 or older engage in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families experience;

(4) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age (or 23 years of age, in the case of a State with a certification under subsection (b)(3)(A)(ii) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with such subsection)<sup>67</sup> to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;

(5) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care;

(6) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption, and

(7)<sup>68</sup> to ensure children who are likely to remain in foster care until 18 years of age have regular, on-going opportunities to engage in age or developmentally-appropriate activities as defined in section 475(11).

(b) APPLICATIONS.—

(1) IN GENERAL.—A State may apply for funds from its allotment under subsection (c) for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) STATE PLAN.—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping youth<sup>69</sup> in foster care achieve independence.

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<sup>67</sup> Sec. 50753(a)(1) of P.L. 115-123 revised purpose (a)(4).

<sup>68</sup> Sec. 111 of P.L. 113-183 added sec. 477(a)(8). P.L. 115-123 re-designated it as (a)(7).

<sup>69</sup> Sec. 50753(d)(3) of P.L. 115-123 replaced references to “adolescents” with “youth” in sec. 477.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) CERTIFICATIONS.—The certifications required by this paragraph with respect to a plan are the following:

(A)(i) A certification by the chief executive officer of the State that the State will provide assistance and services to youths who have aged out of foster care, and have not attained 21 years of age.

(ii)<sup>70</sup> If the State has elected under section 475(8)(B) to extend eligibility for foster care to all children who have not attained 21 years of age, or if the Secretary determines that the State agency responsible for administering the State plans under this part and part B uses State funds or any other funds not provided under this part to provide services and assistance for youths who have aged out of foster care that are comparable to the services and assistance the youths would receive if the State had made such an election, the certification required under clause (i) may provide that the State will provide assistance and services to youths who have aged out of foster care and have not attained 23 years of age.

(B)<sup>71</sup> A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a State with a certification under subparagraph (A)(i) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with subparagraph (A)(ii)).

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended or room or board for any child who has not attained 18 years of age.

(D)<sup>72</sup> A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training including training on youth development to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting youth preparing for a successful transition to adulthood and making a permanent connection with a caring adult.

(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided

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<sup>70</sup> Sec. 50753(a)(2) of P.L. 115-123 revised sec. 477(b)(3)(A) to add paragraph (ii).

<sup>71</sup> Sec. 50753(a)(3) of P.L. 115-123 revised sec. 477(b)(3)(B).

<sup>72</sup> Sec. 50753(d)(3) of P.L. 115-123 revised sec. 477(b)(3)(D).

from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.

(H) A certification by the chief executive officer of the State that the State will ensure that youth participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the youth accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State educational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use—

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5); and

(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program.

(K) A certification by the chief executive officer of the State that the State will ensure that a youth participating in the program under this section are provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the youth if the youth becomes unable to participate in such decisions and the youth does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the youth wants to do so.

(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) AVAILABILITY.—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) ALLOTMENTS TO STATES.—

(1) GENERAL PROGRAM ALLOTMENT.—From the amount specified in subsection (h)(1) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the ratio to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2).

(2) HOLD HARMLESS PROVISION.—

(A) IN GENERAL.—The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) RATABLE REDUCTION OF CERTAIN ALLOTMENTS.—In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) VOUCHER PROGRAM ALLOTMENT.—From the amount, if any, appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) STATE FOSTER CARE RATIO.—In this subsection, the term “State foster care ratio” means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year.

(d) IN GENERAL.—

(1) **IN GENERAL.**—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) **NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.**—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) **TWO-YEAR AVAILABILITY OF FUNDS.**—Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year.

(4) **REALLOCATION OF UNUSED FUNDS.**—If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary or does not expend allocated funds within the time period specified under section 477(d)(3)<sup>73</sup>, the funds to which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary.

(5)<sup>74</sup> **REDISTRIBUTION OF UNEXPENDED AMOUNTS.**—

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

(B) **REDISTRIBUTION.**—

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

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

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

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

(e) **PENALTIES.**—

(1) **USE OF GRANT IN VIOLATION OF THIS PART.**—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or

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<sup>73</sup> Sec. 50753(b) of P.L. 115-123 revised sec. 477(d)(4) to add the phrase on not expending allocated funds.

<sup>74</sup> Sec. 50753(b) of P.L. 115-123 added sec. 477(d)(5).



by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.—

The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

(f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.—

(1) IN GENERAL.—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after the date of the enactment of this section.

(2)<sup>75</sup> REPORT TO CONGRESS.—Not later than October 1, 2019, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the National Youth in Transition Database and any other databases in which States report outcome measures relating to children in foster care and children who have aged out of foster care or left foster care for kinship guardianship or adoption. The report shall include the following:

(A) A description of the reasons for entry into foster care and of the foster care experiences, such as length of stay, number of placement settings, case goal, and discharge reason of 17-year-olds who are surveyed by the National Youth in Transition Database and an analysis of the comparison of that description with the reasons for entry and foster care experiences of children of other ages who exit from foster care before attaining age 17.

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

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<sup>75</sup> Sec. 50753(d)(4) of P.L. 115-123 revised the report to congress in sec. 477(f)(2).

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

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

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

(g) EVALUATIONS.—

(1) GENERAL.—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) FUNDING OF EVALUATIONS.—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section and for payments to States under section 474(a)(4), there are authorized to be appropriated to the Secretary for each fiscal year—

(1) \$140,000,000, or, beginning in fiscal year 2020, \$143,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.

(i)<sup>76</sup> EDUCATIONAL AND TRAINING VOUCHERS.—The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section who have attained 14 years of age.

(2) For purposes of the voucher program, youths who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program to remain eligible until they attain 26 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program, but in no event may a youth participate in the program for more than 5 years (whether or not consecutive).

(4) The voucher or vouchers provided for an individual under this section—

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<sup>76</sup> Sec. 50753(c) of P.L. 115-123 revised sec. 477(i)(1) and (3).

(A) may be available for the cost of attendance at an institution of higher education, as defined in section 102 of the Higher Education Act of 1965; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 472 of that Act.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.

(j) **AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGANIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN ALLOTMENT.—**

(1) **IN GENERAL.**—An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

(2) **APPLICATION.**—A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which a portion of an allotment under subsection (c) would be redirected to the tribe, organization, or consortium; and

(C) contains an explanation of the results of such consultation, particularly with respect to—

(i) determining the eligibility for benefits and services of Indian children to be served under the programs to be carried out under the plan; and

(ii) the process for consulting with the State in order to ensure the continuity of benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

(3) **PAYMENTS.**—The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 474(a)(4) (and, where requested, and if funds are appropriated, section 474(e)) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall

an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

(4) ALLOTMENT.—From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under section 477(c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

(5) TRIBAL FOSTER CARE RATIO.—For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

(B) the sum of—

(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or under supervision of the State) that have a plan approved under this subsection.

## **RULE OF CONSTRUCTION**

SEC. 478. [42 U.S.C. 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).

## **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.

(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to 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.

(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

(B) The membership of the Advisory Committee shall include representatives of—

(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

(v) Federal agencies responsible for the collection of health and social statistics, and

(vi) organizations and agencies involved with privately arranged or international adoptions.

(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

(b)(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

(ii) evaluates 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, and

(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

(B) The report required by subparagraph (A) shall—

(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of—

(A) the system proposed under paragraph (1)(A)(i), or

(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

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

(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,

(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

(E)<sup>77</sup> the annual number of children in foster care who are identified as sex trafficking victims—

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

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

(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

(d)<sup>78</sup> To promote improved knowledge on how best to ensure strong, permanent families for children, the Secretary shall promulgate regulations providing for the collection and analysis of information regarding children who enter into foster care under the supervision of a State after prior finalization of an adoption or legal guardianship. The regulations shall require each State with a State plan approved under this part to collect and report as part of such data collection system the number of children who enter foster care under supervision of the State after finalization of an adoption or legal guardianship and may include information concerning the

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<sup>77</sup> Sec. 103 of P.L. 113-183 added sec. 479(c)(3)(E).

<sup>78</sup> Sec. 208 of P.L. 113-183 added sec. 479(d).

length of the prior adoption or guardianship, the age of the child at the time of the prior adoption or guardianship, the age at which the child subsequently entered foster care under supervision of the State, the type of agency involved in making the prior adoptive or guardianship placement, and any other factors determined necessary to better understand factors associated with the child's post-adoption or post-guardianship entry to foster care.

## ANNUAL REPORT

SEC. 479A. [42 U.S.C. 679b] (a) IN GENERAL. —The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall—

(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part;

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

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

(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child;

(B) the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year as a percentage of the total number of the visits that would occur during the fiscal year if each child were so visited once every month while in such care; and

(C) the percentage of the visits that occurred in the residence of the child; and

(7)<sup>79</sup> include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on—

(A) children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including —

(i) with respect to such placement—

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<sup>79</sup> Sec. 115 of P.L. 113-183 added sec. 479A(a)(7) and (b). Sec. 50744 of P.L. 115-123 revised sec. 479A(a)(7)(A). Effective as if enacted on 1/1/18 (sec. 50746 of P.L. 115-123).

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

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

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

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

(ii) separately, the number and ages of children in the placements who have a permanency plan of another planned permanent living arrangement; and (B) children in foster care who are pregnant or parenting.

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

## **PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS**

SEC. 479B. [42 U.S.C. 679c] (a) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS- In this section, the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) AUTHORITY- Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 471 in accordance with this section.

(c) PLAN REQUIREMENTS-

(1) IN GENERAL- An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 471 the following:

(A) FINANCIAL MANAGEMENT- Evidence demonstrating that the tribe, organization, or consortium has not had any uncorrected significant or material audit exceptions under Federal grants or contracts that directly relate to



the administration of social services for the 3-year period prior to the date on which the plan is submitted.

(B) SERVICE AREAS AND POPULATIONS- For purposes of complying with section 471(a)(3), a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

(C) ELIGIBILITY-

(i) IN GENERAL- Subject to clause (ii) of this subparagraph, an assurance that the plan will provide--

(I) foster care maintenance payments under section 472 only on behalf of children who satisfy the eligibility requirements of section 472(a);

(II) adoption assistance payments under section 473 pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section;

(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 473(d) only on behalf of children who meet the requirements of section 473(d)(3); and

(IV)<sup>80</sup> at the option of the tribe, organization, or consortium, services and programs specified in section 471(e)(1) to children described in section 471(e)(2) and their parents or kin caregivers, in accordance with section 471(e) and subparagraph (E).

(ii) SATISFACTION OF FOSTER CARE ELIGIBILITY REQUIREMENTS- For purposes of determining whether a child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 471 in accordance with this section satisfies the requirements of section 472(a), the following shall apply:

(I) USE OF AFFIDAVITS, ETC- Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 472(a) shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under that paragraph.

(II) AFDC ELIGIBILITY REQUIREMENT- The State plan approved under section 402 (as in effect on July 16, 1996) of the State in which the child resides at the time of removal from the home shall apply to the determination of whether the child satisfies section 472(a)(3).

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<sup>80</sup> Sec. 50711(e) of P.L. 115-123 added sec. 479B(c)(1)(C)(i)(IV). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

(D) OPTION TO CLAIM IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING COSTS DURING INITIAL IMPLEMENTATION PERIOD- Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 474(a)(3). The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

(i) NO EFFECT ON AUTHORITY FOR TRIBES, ORGANIZATIONS, OR CONSORTIA TO CLAIM EXPENDITURES OR INDIRECT COSTS TO THE SAME EXTENT AS STATES- Nothing in this subparagraph shall be construed as preventing a tribe, organization, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 474(a) that a State with a plan approved under section 471(a) could claim for such purposes.

(ii) FISCAL YEAR 2010 OR 2011-

(I) EXPENDITURES OTHER THAN FOR TRAINING- With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 474(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required under this subparagraph to be submitted with the plan.

(II) TRAINING EXPENDITURES- With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 474(a)(3), not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

(III) SOURCES DESCRIBED- For purposes of subclause (II), the sources described in this subclause are the following:

(aa) A State or local government.

(bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.

(cc) A public institution of higher education.

(dd) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c).

(ee) A private charitable organization.

(iii) FISCAL YEAR 2012, 2013, OR 2014-

(I) IN GENERAL- Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

(II) TRANSITION PERIOD FOR EARLY APPROVED TRIBES, ORGANIZATIONS, OR CONSORTIA- Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the earlier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

(III) DEFINITION OF EARLY APPROVED TRIBE, ORGANIZATION, OR CONSORTIUM- For purposes of subclause (II) of this clause, the term 'early approved tribe, organization, or consortium' means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 471 in accordance with this section for any quarter of fiscal year 2010 or 2011.

(iv) FISCAL YEAR 2015 AND THEREAFTER- Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any

subparagraph of section 474(a)(3) of this Act, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any subparagraph of such section 474(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

(v) CONTINGENCY RULE- If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for under section 474(a)(3) of this Act, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise--

(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under section 471(a) of this Act could not claim in-kind expenditures from third-party sources for such purposes.

**(E)<sup>81</sup> PREVENTION SERVICES AND PROGRAMS FOR CHILDREN AND THEIR PARENTS AND KIN CAREGIVERS.—**

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

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

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<sup>81</sup> Sec. 50711(e) of P.L. 115-123 added sec. 479B(c)(1)(E). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

(2) CLARIFICATION OF TRIBAL AUTHORITY TO ESTABLISH STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND TRIBAL CHILD CARE INSTITUTIONS- For purposes of complying with section 471(a)(10), an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

(3) CONSORTIUM- The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

(4)<sup>82</sup> INAPPLICABILITY OF STATE PLAN REQUIREMENT TO HAVE IN EFFECT PROCEDURES PROVIDING FOR THE USE OF AN ELECTRONIC INTERSTATE CASE-PROCESSING SYSTEM.—The requirement in section 471(a)(25) that a State plan provide that the State shall have in effect procedures providing for the use of an electronic interstate case processing system shall not apply to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part.

(d)<sup>83</sup> DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE-

(1) PER CAPITA INCOME- For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), (5), and (6)(A) of section 474(a), the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

(2) CONSIDERATION OF OTHER INFORMATION- Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

(e) NONAPPLICATION TO COOPERATIVE AGREEMENTS AND CONTRACTS-

Any cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under this part that is in effect as of the date of enactment of this section shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

(f) JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM- Except as provided in section 477(j), subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 477 (or with respect to payments made under section 474(a)(4) or grants made under section 474(e)).

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<sup>82</sup> Sec. 50722(b) of P.L. 115-123 added sec. 479B(c)(4). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

<sup>83</sup> Sec. 50711(e) of P.L. 115-123 revised the name of paragraph (d) and added the cite to (6)(A) in sec. 479B(d)(1). Effective 10/1/18 (sec. 50734 of P.L. 115-123).

(g) **RULE OF CONSTRUCTION**- Nothing in this section shall be construed as affecting the application of section 472(h) to a child on whose behalf payments are paid under section 472, or the application of section 473(b) to a child on whose behalf payments are made under section 473 pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.

## **TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION<sup>84</sup>**

### **PART A—GENERAL PROVISIONS**

#### **NATIONAL ADVISORY COMMITTEE ON THE SEX TRAFFICKING OF CHILDREN AND YOUTH IN THE UNITED STATES<sup>85</sup>**

SEC. 1114A. (a) **OFFICIAL DESIGNATION**.—This section relates to the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (in this section referred to as the ‘Committee’).

(b) **AUTHORITY**.—Not later than 2 years after the date of enactment of this section, the Secretary shall establish and appoint all members of the Committee.

(c) **MEMBERSHIP**.—

(1) **COMPOSITION**.—The Committee shall be composed of not more than 21 members whose diverse experience and background enable them to provide balanced points of view with regard to carrying out the duties of the Committee.

(2) **SELECTION**.—The Secretary, in consultation with the Attorney General and National Governors Association, shall appoint the members to the Committee. At least 1 Committee member shall be a former sex trafficking victim. 2 Committee members shall be a Governor of a State, 1 of whom shall be a member of the Democratic Party and 1 of whom shall be a member of the Republican party.

(3) **PERIOD OF APPOINTMENT; VACANCIES**.—Members shall be appointed for the life of the Committee. A vacancy in the Committee shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Committee.

(4) **COMPENSATION**.—Committee members shall serve without compensation or per diem in lieu of subsistence.

(d) **DUTIES**.—

(1) **NATIONAL RESPONSE**.—The Committee shall advise the Secretary and the Attorney General on practical and general policies concerning improvements to the

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<sup>84</sup> We included sections of title XI of the Act that are related to titles IV-B and IV-E of the Act or the Administration for Children and Families only.

<sup>85</sup> Sec. 121 of P.L. 113-183 added sec. 1114A.

Nation's response to the sex trafficking of children and youth in the United States.

(2) **POLICIES FOR COOPERATION.**—The Committee shall advise the Secretary and the Attorney General on practical and general policies concerning the cooperation of Federal, State, local, and tribal governments, child welfare agencies, social service providers, physical health and mental health providers, victim service providers, State or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families, Federal, State, and local police, juvenile detention centers and runaway and homeless youth programs, schools, the gaming and entertainment industry, and businesses and organizations that provide services to youth, on responding to sex trafficking, including the development and implementation of—

(A) successful interventions with children and youth who are exposed to conditions that make them vulnerable to, or victims of, sex trafficking;

(B) recommendations for administrative or legislative changes necessary to use programs, properties, or other resources owned, operated or funded by the Federal Government to provide safe housing for children and youth who are sex trafficking victims and provide support to entities that provide housing or other assistance to the victims.

(3) **BEST PRACTICES FOR STATES.**—

(A) **IN GENERAL.**— Within 2 years after the establishment of the Committee, the Committee shall develop 2 tiers (referred to in this subparagraph as ‘Tier I’ and ‘Tier II’) of recommended best practices for States to follow in combating the sex trafficking of children and youth. Tier I shall provide States that have not yet substantively addressed sex trafficking of children and youth with an idea of where to begin and what steps to take. Tier II shall provide States that are already working to address sex trafficking of children and youth with examples of policies that are already being used effectively by other States to address sex trafficking.

(B) **DEVELOPMENT.**—The best practices shall be based on multidisciplinary research and promising, evidence-based models and programs as reflected in State efforts to meet the requirements of sections 101 and 102 of the Preventing Sex Trafficking and Strengthening Families Act.

(C) **CONTENT.**—The best practices shall be user-friendly, incorporate the most up-to-date technology, and include the following:

(i) Sample training materials, protocols, and screening tools that, to the extent possible, accommodate for regional differences among the States, to prepare individuals who administer social services to identify and serve children and youth who are sex trafficking victims or at-risk of sex trafficking.

(ii) Multidisciplinary strategies to identify victims, manage cases, and improve services for all children and youth who are at risk of sex trafficking, or are sex trafficking victims, in the United States.

(iii) Sample protocols and recommendations based on current States' efforts, accounting for regional differences between States that provide for effective, cross-system collaboration between Federal, State, local, and tribal governments, child welfare agencies, social service

providers, physical health and mental health providers, victim service providers, State or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families, the gaming and entertainment industry, Federal, State, and local police, juvenile detention centers and runaway and homeless youth programs, housing resources that are appropriate for housing child and youth victims of trafficking, schools, and businesses and organizations that provide services to children and youth. These protocols and recommendations should include strategies to identify victims and collect, document, and share data across systems and agencies, and should be designed to help agencies better understand the type of sex trafficking involved, the scope of the problem, the needs of the population to be served, ways to address the demand for trafficked children and youth and increase prosecutions of traffickers and purchasers of children and youth, and the degree of victim interaction with multiple systems.

(iv) Developing the criteria and guidelines necessary for establishing safe residential placements for foster children who have been sex trafficked as well as victims of trafficking identified through interaction with law enforcement.

(v) Developing training guidelines for caregivers that serve children and youth being cared for outside the home.

(D) INFORMING STATES OF BEST PRACTICES.—The Committee, in coordination with the National Governors Association, Secretary and Attorney General, shall ensure that State Governors and child welfare agencies are notified and informed on a quarterly basis of the best practices and recommendations for States, and notified 6 months in advance that the Committee will be evaluating the extent to which States adopt the Committee’s recommendations.

(E) REPORT ON STATE IMPLEMENTATION.—Within 3 years after the establishment of the Committee, the Committee shall submit to the Secretary and the Attorney General, as part of its final report as well as for online and publicly available publication, a description of what each State has done to implement the recommendations of the Committee.

(e) REPORTS.—

(1) IN GENERAL.—The Committee shall submit an interim and a final report on the work of the Committee to—

(A) the Secretary;

(B) the Attorney General;

(C) the Committee on Finance of the Senate; and

(D) the Committee on Ways and Means of the House of Representatives.

(2) REPORTING DATES.—The interim report shall be submitted not later than 3 years after the establishment of the Committee. The final report shall be submitted not later than 4 years after the establishment of the Committee.

(f) ADMINISTRATION.—

(1) AGENCY SUPPORT.—The Secretary shall direct the head of the Administration for Children and Families of the Department of Health and Human Services to provide all necessary support for the Committee.



(2) MEETINGS.—

(A) IN GENERAL.—The Committee will meet at the call of the Secretary at least twice each year to carry out this section, and more often as otherwise required.

(B) ACCOMMODATION FOR COMMITTEE MEMBERS UNABLE TO ATTEND IN PERSON.— The Secretary shall create a process through which Committee members who are unable to travel to a Committee meeting in person may participate remotely through the use of video conference, teleconference, online, or other means.

(3) SUBCOMMITTEES.—The Committee may establish subcommittees or working groups, as necessary and consistent with the mission of the Committee. The subcommittees or working groups shall have no authority to make decisions on behalf of the Committee, nor shall they report directly to any official or entity listed in subsection (d).

(4) RECORDKEEPING.—The records of the Committee and any subcommittees and working groups shall be maintained in accordance with appropriate Department of Health and Human Services policies and procedures and shall be available for public inspection and copying, subject to the Freedom of Information Act (5 U.S.C. 552).

(g) TERMINATION.—The Committee shall terminate 5 years after the date of its establishment, but the Secretary shall continue to operate and update, as necessary, an Internet website displaying the State best practices, recommendations, and evaluation of State-by-State implementation of the Secretary’s recommendations.

(h) DEFINITION.—For the purpose of this section, the term ‘sex trafficking’ includes the definition set forth in section 103(10) of the Trafficking Victims Protection Act of 2000 and ‘severe form of trafficking in persons’ described in section 103(9)(A) of such Act.

## **EFFECT OF FAILURE TO CARRY OUT STATE PLAN<sup>86</sup>**

SEC. 1123. [42 U.S.C. 1320a–2] In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided*, however, That this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action.

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<sup>86</sup> This section was mistakenly codified in two sections of the Social Security Act and the U.S. Code. The section is repeated at section 1130A of the Act [42 U.S.C. 1320a-10].

## **REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR CONFORMITY WITH STATE PLAN REQUIREMENTS**

SEC. 1123A. [42 U.S.C. 1320a–2a] (a) IN GENERAL.—The Secretary, in consultation with the State agencies administering the State programs under parts B and E of title IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

- (1) State plan requirements under such parts B and E,
- (2) implementing regulations promulgated by the Secretary, and
- (3) the relevant approved State plans.

(b) ELEMENTS OF REVIEW SYSTEM.—The regulations referred to in subsection (a) shall—

- (1) specify the timetable for conformity reviews of State programs, including—
  - (A) an initial review of each State program;
  - (B) a timely review of a State program following a review in which such program was found not to be in substantial conformity; and
  - (C) less frequent reviews of State programs which have been found to be in substantial conformity, but such regulations shall permit the Secretary to reinstate more frequent reviews based on information which indicates that a State program may not be in conformity;
- (2) specify the requirements subject to review (which shall include determining whether the State program is in conformity with the requirement of section 471(a)(27)), and the criteria to be used to measure conformity with such requirements and to determine whether there is a substantial failure to so conform;
- (3) specify the method to be used to determine the amount of any Federal matching funds to be withheld (subject to paragraph (4)) due to the State program's failure to so conform, which ensures that—
  - (A) such funds will not be withheld with respect to a program, unless it is determined that the program fails substantially to so conform;
  - (B) such funds will not be withheld for a failure to so conform resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and
  - (C) the amount of such funds withheld is related to the extent of the failure to so conform; and
- (4) require the Secretary, with respect to any State program found to have failed substantially to so conform—
  - (A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the failure to so conform;
  - (B) to make technical assistance available to the State to the extent feasible to enable the State to develop and implement such a corrective action plan;
  - (C) to suspend the withholding of any Federal matching funds under this section while such a corrective action plan is in effect; and
  - (D) to rescind any such withholding if the failure to so conform is ended by successful completion of such a corrective action plan.

(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

(1) require the Secretary, not later than 10 days after a final determination that a program of the State is not in conformity, to notify the State of—

(A) the basis for the determination; and

(B) the amount of the Federal matching funds (if any) to be withheld from the State;

(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1), (or, if later after failure to continue or to complete a corrective action plan); and

(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State receives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.

## DEMONSTRATION PROJECTS

SEC. 1130. [42 U.S.C. 1320a-9] (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.—During fiscal years 2012 through 2014, the Secretary may authorize demonstration projects described in paragraph (1), with not more than 10 demonstration projects to be authorized in each fiscal year.

(3) CONDITIONS FOR STATE ELIGIBILITY.—For purposes of a new demonstration project under this section that is initially approved in any of fiscal years 2012 through 2014, a State shall be authorized to conduct such demonstration project only if the State satisfies the following conditions:

(A) IDENTIFY 1 OR MORE GOALS. —

(i) IN GENERAL. —The State shall demonstrate that the demonstration project is designed to accomplish 1 or more of the following goals:

(I) Increase permanency for all infants, children, and youth by reducing the time in foster placements when possible and promoting a successful transition to adulthood for older youth.

(II) Increase positive outcomes for infants, children, youth, and families in their homes and communities, including tribal communities, and improve the safety and well-being of infants, children, and youth.

(III) Prevent child abuse and neglect and the re-entry of infants, children, and youth into foster care.

(ii) **LONG-TERM THERAPEUTIC FAMILY TREATMENT CENTERS; ADDRESSING DOMESTIC VIOLENCE.** —With respect to a demonstration project that is designed to accomplish 1 or more of the goals described in clause (i), the State may elect to establish a program—

(I) to permit foster care maintenance payments to be made under part E of title IV to a long-term therapeutic family treatment center (as described in paragraph (8)(B)) on behalf of a child residing in the center; or

(II) to identify and address domestic violence that endangers children and results in the placement of children in foster care.

(B) **DEMONSTRATE READINESS.** —The State shall demonstrate through a narrative description the State’s capacity to effectively use the authority to conduct a demonstration project under this section by identifying changes the State has made or plans to make in policies, procedures, or other elements of the State’s child welfare program that will enable the State to successfully achieve the goal or goals of the project.

(C) **DEMONSTRATE IMPLEMENTED OR PLANNED CHILD WELFARE PROGRAM IMPROVEMENT POLICIES.** —

(i) **IN GENERAL.** —The State shall demonstrate that the State has implemented, or plans to implement within 3 years of the date on which the State submits its application to conduct the demonstration project or 2 years after the date on which the Secretary approves such demonstration project (whichever is later), at least 2 of the child welfare program improvement policies described in paragraph (7).

(ii) **PREVIOUS IMPLEMENTATION.** —For purposes of the requirement described in clause (i), at least 1 of the child welfare program improvement policies to be implemented by the State shall be policy that the State has not previously implemented as of the date on which the State submits an application to conduct the demonstration project.

(iii) **IMPLEMENTATION REVIEW.** —The Secretary may terminate the authority of a State to conduct a demonstration project under this section if, after the 3-year period following approval of the demonstration project, the State has not made significant progress in implementing the child welfare program improvement policies proposed by the State under clause (i).

(4) **LIMITATION ON ELIGIBILITY.**—The Secretary may not authorize a State to conduct a demonstration project under this section if the State fails to provide health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents.

(5) **REQUIREMENT TO CONSIDER EFFECT OF PROJECT ON TERMS AND CONDITIONS OF CERTAIN COURT ORDERS.**—In considering an application to conduct a demonstration project under this section that has been submitted by a State in which there is in effect a court order determining that the State's child welfare program has failed to comply with the provisions of part B or E of title IV, or with the Constitution of the United States, the Secretary shall take into consideration the effect of

approving the proposed project on the terms and conditions of the court order related to the failure to comply and the ability of the State to implement a corrective action plan approved under section 1123A.

(6) **INAPPLICABILITY OF RANDOM ASSIGNMENT FOR CONTROL GROUPS AS A FACTOR FOR APPROVAL OR DEMONSTRATION PROJECTS.** — For purposes of evaluating an application to conduct a demonstration project under this section, the Secretary shall not take into consideration whether such project requires random assignment of children and families to groups served under the project and to control groups.

(7) **CHILD WELFARE PROGRAM IMPROVEMENT POLICIES.** —For purposes of paragraph (3)(C), the child welfare program improvement policies described in this paragraph are the following:

(A) The establishment of a bill of rights for infants, children, and youth in foster care that is widely shared and clearly outlines protections for infants, children, and youth, such as assuring frequent visits with parents, siblings, and caseworkers, access to attorneys, and participation in age-appropriate extracurricular activities, and procedures for ensuring the protections are provided.

(B) The development and implementation of a plan for meeting the health and mental health needs of infants, children, and youth in foster care that includes ensuring that the provision of health and mental health care is child specific, comprehensive, appropriate, and consistent (through means such as ensuring the infant, child, or youth has a medical home, regular wellness medical visits, and addressing the issue of trauma, when appropriate).

(C) The inclusion in the State plan under section 471 of an amendment implementing the option under subsection (a)(28) of that section to enter into kinship guardianship assistance agreements.

(D) The election under the State plan under section 471 to define a ‘child’ for purposes of the provision of foster care maintenance payments, adoption assistance payments, and kinship guardianship assistance payments, so as to include individuals described in each of subclauses (I), (II), and (III) of section 475(8)(B)(i) who have not attained age 21.

(E) The development and implementation of a plan that ensures congregate care is used appropriately and reduces the placement of children and youth in such care.

(F) Of those infants, children, and youth in out-of-home placements, substantially increasing the number of cases of siblings who are in the same foster care, kinship guardianship, or adoptive placement, above the number of such cases in fiscal year 2008.

(G) The development and implementation of a plan to improve the recruitment and retention of high quality foster family homes trained to help assist infants, children, and youth swiftly secure permanent families. Supports for foster families under such a plan may include increasing maintenance payments to more adequately meet the needs of infants, children, and youth in foster care and expanding training, respite care, and other support services for foster parents.

(H) The establishment of procedures designed to assist youth as they prepare for their transition out of foster care, such as arranging for participation in age-appropriate extra-curricular activities, providing appropriate access to cell phones, computers, and opportunities to obtain a driver's license, providing notification of all sibling placements if siblings are in care and sibling location if siblings are out of care, and providing counseling and financial support for post-secondary education.

(I) The inclusion in the State plan under section 471 of a description of State procedures for—

(i) ensuring that youth in foster care who have attained age 16 are engaged in discussions, including during the development of the transition plans required under paragraphs (1)(D) and (5)(H) of section 475, that explore whether the youth wishes to reconnect with the youth's biological family, including parents, grandparents, and siblings, and, if so, what skills and strategies the youth will need to successfully and safely reconnect with those family members;

(ii) providing appropriate guidance and services to youth whom affirm an intent to reconnect with biological family members on how to successfully and safely manage such reconnections; and

(iii) making, when appropriate, efforts to include biological family members in such reconnection efforts.

(J) The establishment of one or more of the following programs designed to prevent infants, children, and youth from entering foster care or to provide permanency for infants, children, and youth in foster care:

(i) An intensive family finding program.

(ii) A kinship navigator program.

(iii) A family counseling program, such as a family group decision-making program, and which may include in-home peer support for families.

(iv) A comprehensive family-based substance abuse treatment program.

(v) A program under which special efforts are made to identify and address domestic violence that endangers infants, children, and youth and puts them at risk of entering foster care.

(vi) A mentoring program.

(8) DEFINITIONS.—In this subsection—

(A) the term 'youth' means, with respect to a State, an individual who has attained age 12 but has not attained the age at which an individual is no longer considered to be a child under the State plans under parts B and E of title IV, and

(B) the term 'long-term therapeutic family treatment center' means a State licensed or certified program that enables parents and their children to live together in a safe environment for a period of not less than 6 months and provides, on-site or by referral, substance abuse treatment services, children's early intervention services, family counseling, legal services, medical care, mental health services, nursery and preschool, parenting skills training, pediatric care, prenatal care, sexual abuse therapy, relapse prevention, transportation, and job or

vocational training or classes leading to a secondary school diploma or a certificate of general equivalence.

(b) **WAIVER AUTHORITY.**—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

(1) any provision of section 422(b)(8), or section 479; or

(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

(c) **TREATMENT AS PROGRAM EXPENDITURES.**—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

(d) **DURATION OF DEMONSTRATION.**—

(1) **IN GENERAL.** —Subject to paragraph (2), a demonstration project under this section may be conducted for not more than 5 years, unless in the judgment of the Secretary, the demonstration project should be allowed to continue.

(2) **TERMINATION OF AUTHORITY.** —In no event shall a demonstration project under this section be conducted after September 30, 2019.

(e) **APPLICATION.**—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes

(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project;

(2) a statement of the period during which the proposed project would be conducted;

(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

(4) an estimate of the costs or savings of the proposed project;

(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

(6) a description of the proposed evaluation design;

(7) an accounting of any additional Federal, State, and local investments made, as well as any private investments made in coordination with the State, during the 2 fiscal years preceding the application to provide the services described in paragraph (1), and an assurance that the State will provide an accounting of that same spending for each year of an approved demonstration project; and

(8) such additional information as the Secretary may require.

(f) **EVALUATIONS.**—Each State authorized to conduct a demonstration project under this section shall obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

(1) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

(2) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

(3) any other information that the Secretary may require.

(g) REPORTS. —

(1) STATE REPORTS; PUBLIC AVAILABILITY.—Each State authorized to conduct a demonstration project under this section shall—

(A) submit periodic reports to the Secretary on the specific programs, activities, and strategies used to improve outcomes for infants, children, youth, and families and the results achieved for infants, children, and youth during the conduct of the demonstration project, including with respect to those infants, children, and youth who are prevented from entering foster care, infants, children, and youth in foster care, and infants, children, and youth who move from foster care to permanent families; and

(B) post a copy of each such report on the Internet website for the State child welfare program concurrent with the submission of the report to the Secretary.

(2) REPORTS TO CONGRESS.—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) periodic reports based on the State reports submitted under paragraph (1); and

(B) a report based on the results of the State evaluations required under subsection (f) that includes an analysis of the results of such evaluations and such recommendations for administrative or legislative changes as the Secretary determines appropriate.

(h) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.

(i) INDIAN TRIBES OPERATING IV–E PROGRAMS CONSIDERED STATES.—An Indian tribe, tribal organization, or tribal consortium that has elected to operate a program under part E of title IV in accordance with section 479B shall be considered a State for purposes of this section.