

LEXSEE 109 P.L. 239

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PUBLIC LAW 109-239 [H.R. 5403]  
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FULL TEXT VERSION(S) OF BILL: 109 H.R. 5403

An Act

To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

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

[\*1] SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe and Timely Interstate Placement of Foster Children Act of 2006".

[\*2] SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that--

(1) the States should expeditiously ratify the revised Interstate Compact for the Placement of Children recently promulgated by the American Public Human Services Association;

(2) this Act and the revised Interstate Compact for the Placement of Children should not apply to those seeking placement in a licensed residential facility primarily to access clinical mental health services;

(3) the States should recognize and implement the deadlines for the completion and approval of home studies as provided in section 4 to move children more quickly into safe, permanent homes; and

(4) Federal policy should encourage the safe and expedited placement of children into safe, permanent homes across State lines.

[\*3] SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE PLACEMENT OF CHILDREN.

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

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following:

"(25) provide that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph." .

[\*4] SEC. 4. HOME STUDIES.

(a) Orderly Process.--

(1) In general.-- Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is further amended--

(A) by striking "and" at the end of paragraph (24);

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(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

(C) by adding at the end the following:

"(26) provides that--

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

"(I) conduct and complete the study; and

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

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

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

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

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

(2) Report to the congress.-- Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on--

(A) how frequently States need the extended 75-day period provided for in clause (ii) of section 471(a)(26)(A) of the Social Security Act in order to comply with clause (i) of such section;

(B) the reasons given for utilizing the extended compliance period;

(C) the extent to which utilizing the extended compliance period leads to the resolution of the circumstances beyond the control of the State; and

(D) the actions taken by States and any relevant Federal agencies to resolve the need for the extended compliance period.

(3) Sense of the congress.-- It is the sense of the Congress that each State should--

(A) use private agencies to conduct home studies when doing so is necessary to meet the requirements of section 471(a)(26) of the Social Security Act; and

(B) give full faith and credit to any home study report completed by any other State or an Indian tribe with respect to the placement of a child in foster care or for adoption.

(b) Timely Interstate Home Study Incentive Payments.--Part E of title IV of the Social Security Act (42 U.S.C. 670-679b) is amended by inserting after section 473A the following:

"Sec. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.

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"(a) Grant Authority.--The Secretary shall make a grant to each State that is a home study incentive-eligible State for a fiscal year in an amount equal to the timely interstate home study incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

"(b) Home Study Incentive-Eligible State.--A State is a home study 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; and

"(3) based on data submitted and verified pursuant to subsection (c), the State has completed a timely interstate home study during the fiscal year.

"(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 a written report, covering the preceding fiscal year, that specifies--

"(A) the total number of interstate home studies requested by the State with respect to children in foster care under the responsibility of the State, and with respect to each such study, the identity of the other State involved;

"(B) the total number of timely interstate home studies completed by the State with respect to children in foster care under the responsibility of other States, and with respect to each such study, the identity of the other State involved; and

"(C) such other information as the Secretary may require in order to determine whether the State is a home study incentive-eligible State.

"(2) Verification of data.-- In determining the number of timely interstate home studies to be attributed to a State under this section, the Secretary shall check the data provided by the State under paragraph (1) against complementary data so provided by other States.

"(d) Timely Interstate Home Study Incentive Payments.--

"(1) In general.-- The timely interstate home study incentive payment payable to a State for a fiscal year shall be \$ 1,500, multiplied by the number of timely interstate home studies attributed to the State under this section during the fiscal year, subject to paragraph (2).

"(2) Pro rata adjustment if insufficient funds available.-- If the total amount of timely interstate home study incentive payments otherwise payable under this section for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year (reduced (but not below zero) by the total of the amounts (if any) payable under paragraph (3) of this subsection with respect to the preceding fiscal year), the amount of each such otherwise payable incentive payment shall be reduced by a percentage equal to--

"(A) the total of the amounts so made available (as so reduced); divided by

"(B) the total of such otherwise payable incentive payments.

"(3) Appropriations available for unpaid incentive payments for prior fiscal years.----

"(A) In general.--If payments under this section are reduced under paragraph (2) or subparagraph (B) of this paragraph for a fiscal year, then, before making any other payment under this section for the next fiscal year, the Secretary shall pay each State whose payment was so reduced an amount equal to the total amount of the reductions which applied to the State, subject to subparagraph (B) of this paragraph.

"(B) Pro rata adjustment if insufficient funds available.--If the total amount of payments otherwise payable under subparagraph (A) of this paragraph for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year, the amount of each such payment shall be reduced by a percentage equal to--

"(i) the total of the amounts so made available; divided by

"(ii) the total of such otherwise payable payments.

"(e) Two-Year Availability of Incentive Payments.--Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the next fiscal year.

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"(f) Limitations on Use of Incentive Payments.--A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

"(g) Definitions.--In this section:

"(1) Home study.-- The term 'home study' means an evaluation of a home environment conducted in accordance with applicable requirements of the State in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

"(2) Interstate home study.-- The term 'interstate home study' means a home study conducted by a State at the request of another State, to facilitate an adoptive or foster placement in the State of a child in foster care under the responsibility of the State.

"(3) Timely interstate home study.-- The term 'timely interstate home study' means an interstate home study completed by a State if the State provides to the State that requested the study, within 30 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the State to have completed, within the 30-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.

"(h) Limitations on Authorization of Appropriations.--

"(1) In general.-- For payments under this section, there are authorized to be appropriated to the Secretary--

"(A) \$ 10,000,000 for fiscal year 2007;

"(B) \$ 10,000,000 for fiscal year 2008;

"(C) \$ 10,000,000 for fiscal year 2009; and

"(D) \$ 10,000,000 for fiscal year 2010.

"(2) Availability.-- Amounts appropriated under paragraph (1) are authorized to remain available until expended."

(c) Repealer.--Effective October 1, 2010, section 473B of the Social Security Act is repealed.

[\*5] SEC. 5. SENSE OF THE CONGRESS.

It is the sense of the Congress that State agencies should fully cooperate with any court which has authority with respect to the placement of a child in foster care or for adoption, for the purpose of locating a parent of the child, and such cooperation should include making available all information obtained from the Federal Parent Locator Service.

[\*6] SEC. 6. CASEWORKER VISITS.

(a) Purchase of Services in Interstate Placement Cases.--Section 475(5)(A)(ii) of the Social Security Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "or of the State in which the child has been placed" and inserting "of the State in which the child has been placed, or of a private agency under contract with either such State".

(b) Increased Visits.--Section 475(5)(A)(ii) of such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "12" and inserting "6".

[\*7] SEC. 7. HEALTH AND EDUCATION RECORDS.

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

(1) in paragraph (1)(C)--

(A) by striking "To the extent available and accessible, the" and inserting "The"; and

(B) by inserting "the most recent information available regarding" after "including"; and

(2) in paragraph (5)(D)--

(A) by inserting "a copy of the record is" before "supplied"; and

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(B) by inserting ", 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" before the semicolon.

[\*8] SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) In General.--Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended--

- (1) by striking "an opportunity" and inserting "a right";
- (2) by striking "and opportunity" and inserting "and right"; and
- (3) by striking "review or hearing" each place it appears and inserting "proceeding".

(b) Notice of Proceeding.--Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting "shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and" after "highest State court".

[\*9] SEC. 9. COURT IMPROVEMENT.

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended--

- (1) by striking "and" at the end of subparagraph (C); and
- (2) by adding at the end the following:

"(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".

[\*10] SEC. 10. REASONABLE EFFORTS.

(a) In General.--Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting "(including, if appropriate, through an interstate placement)" after "accordance with the permanency plan".

(b) Permanency Hearing.--Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting ", which considers in-State and out-of-State permanent placement options for the child," before "shall".

(c) Concurrent Planning.--Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting ", including identifying appropriate in-State and out-of-State placements" before "may".

[\*11] SEC. 11. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting "to facilitate orderly and timely in-State and interstate placements" before the period.

[\*12] SEC. 12. CASE REVIEW SYSTEM.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended--

(1) by inserting ", 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," after "living arrangement"; and

(2) by inserting "the hearing shall determine" before "whether the".

[\*13] SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.

Section 422(b)(12) of the Social Security Act (42 U.S.C. 622(b)(12)) is amended--

(1) by striking "develop plans for the" and inserting "make";

(2) by inserting "(including through contracts for the purchase of services)" after "resources"; and

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(3) by inserting ", and shall eliminate legal barriers," before "to facilitate".

[\*14] SEC. 14. EFFECTIVE DATE.

(a) In General.--Except as otherwise provided in this section, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) Delay Permitted If State Legislation Required.--If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part B or E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by a provision of this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.