Excerpts from

House Committee on Ways and Means Report 114-628 of June 21, 2016 to accompany HR 5456, the Family First Prevention Services Act of 2016

The following contains excerpts of selected material from the committee report on the 2016 bill that passed the House of Representatives but did not pass the Senate. While the bill that passed in 2018 as part of HR 1892, the Bipartisan Budget Act of 2018, did contain some changes to the 2016 bill, much of the key content remained the same. The explanation section of the committee report (pages 31through 71) contains an explanation of the key provisions of the bill and may provide important insight into the Congressional intent for these changes – particularly provisions in the 2018 bill that that are identical or similar to the 2016 bill.

The excerpts in this document include the Table of Contents and the Explanations of the Bill section. The full committee report (256 pages) is available on Congress.gov.

114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–628

FAMILY FIRST PREVENTION SERVICES ACT OF 2016

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

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5456]

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

CONTENTS

59–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family First Prevention Services Act of 2016".

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

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

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

Committee action

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

II. EXPLANATION OF THE BILL

SECTIONS 1 AND 2: SHORT TITLE AND TABLE OF CONTENTS

Present law

No provision.

Explanation of provision

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

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

Reason for change

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

Effective date

These provisions are effective upon enactment.

Title I—Investing in Prevention and Family Services

SECTION 101: PURPOSE

Present law

No provision.

Explanation of provision

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

Reason for change

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

Effective date

The provision is effective upon enactment.

SUBTITLE A—PREVENTION ACTIVITIES UNDER TITLE IV–E

SECTION 111: FOSTER CARE PREVENTION SERVICES AND PROGRAMS

Present law

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

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

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

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

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

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

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

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

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

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

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

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

Reason for change

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

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

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

Many states indicate they use:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective date

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

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

Present law

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

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

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

Explanation of provision

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

Reason for change

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

Effective date

The provision is effective on October 1, 2016.

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

Present law

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

Explanation of provision

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

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

Reasons for change

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

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

[15] Ellis, Renee R. and Tavia Simmons, "Coresident Grandparents and Their Grandchildren: 2012," Current Population Reports, P20–576, U.S. Census Bureau, Washington, DC. 2014.

Effective date

The provision is effective on October 1, 2016.

SUBTITLE B—ENHANCED SUPPORT UNDER TITLE IV–B

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

Present law

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

Explanation of provision

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

Reason for change

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

Effective date

The provision is effective on October 1, 2016.

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

Present law

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

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

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

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

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

Explanation of provision

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

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

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

Reason for change

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

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

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

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

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

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

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

Effective date

The provision is effective on October 1, 2016.

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

Present law

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

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

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

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

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

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

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

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

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

Reason for change

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

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

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

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

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

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

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

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

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

[20] Kaplan, C., Schene, P., De Panfilis, D., & Gilmore, D. (2009). Shining light on chronic neglect. Protecting Children, 24, 1–7.

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

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

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

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

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

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

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

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

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

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

Effective date

The provision is effective on October 1, 2016.

SUBTITLE C—MISCELLANEOUS

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

Present law

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

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

Explanation of provision

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

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

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

Reason for change

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

Effective date

The provision is effective upon enactment.

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

Present law

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

Explanation of provision

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

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

Reason for change

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

> Through legislation, Congress should require states to develop and implement a coordinated, integrated, and comprehensive state plan to prevent child maltreatment fatalities. The state fatality prevention plan should specify how the state is targeting resources to reach children at highest risk for fatalities, as identified by the state's data mining effort (as described in Chapter 2).
>
> Legislation should specify certain safety benchmarks, and all state plans should address common risk factors for child abuse and neglect fatalities, but legislation should allow states local flexibility in designing their plans to best meet the unique needs of their population and build on resources already in place. States should be directed to utilize evidence-based strategies and be responsible for evaluating their effectiveness. The federal government could provide targeted funds to spur innovation and to help states test and evaluate their strategies. State child fatality prevention plans should take a comprehensive, early intervention approach, with CPS being one of multiple key partners. Core components of state plans should include the following:
>
> 1. Data. The plan's action strategy must be driven by data (including state needs assessments and cross-system data sharing). Data tracking must include the following:
>
> a. Use of three or more data sources in tracking fatalities and life-threatening injuries
>
> b. Identification of the ZIP codes and/or census tracks with high rates of child abuse and neglect fatalities and life-threatening injuries
>
> 2. Partners. The state must have a plan to engage public-private partners, community organizations, faith-based communities, and families. For example, if parental substance use is identified as a significant risk factor for fatality, the plan should reflect coordination and shared accountability between CPS and the state's substance abuse services.
>
> 3. Clear interagency roles and responsibilities. The plan should reflect clear and effective programmatic coordination to address risk factors identified through data mining. The plan also may include requests for flexibility in rel-

evant funding streams to better address documented needs.

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

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

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

Effective date

The provision is effective on October 1, 2016.

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

Present law

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

Explanation of provision

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

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

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

Reason for change

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

Effective date

The provision is effective upon enactment.

SECTION 134: EFFECTIVE DATES

Present law

No provision.

Explanation of provision

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

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

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

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

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

Reason for change

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

Effective date

The provision is effective upon enactment.

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

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

Present law

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

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

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

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

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

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

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

Present law

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

- Ongoing Review of Placement Setting Decision by State Agency

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

- Additional Oversight for Stays Beyond Specified Time Periods

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

SECTION 203: PROTOCOLS TO PREVENT INAPPROPRIATE DIAGNOSES

Present law

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

Explanation of provision

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

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

Present law

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

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

Explanation of provision

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

SECTION 205: EFFECTIVE DATES; APPLICATION TO WAIVERS

Present law

No provision.

Explanation of provision

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

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

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

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

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

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

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

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

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

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

[24] Ibid.

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

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

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

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

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

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

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

Title III—Continuing Support for Child and Family Services

SECTION 301: SUPPORTING AND RETAINING FOSTER FAMILIES FOR CHILDREN

Present law

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

Explanation of provision

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

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

SECTION 302: EXTENSION OF CHILD AND FAMILY SERVICES PROGRAMS

Present law

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

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

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

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

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

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

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

Explanation of provision

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

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

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

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

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

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

Present law

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

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

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

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

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

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

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

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

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

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

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

These provisions are effective on October 1, 2016.

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

SECTION 401: REAUTHORIZING ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PROGRAMS

Present law

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

Explanation of provision

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

Reason for change

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

Effective date

The provision is effective upon enactment.

Title V—Technical Corrections

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

Present law

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

Explanation of provision

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

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

Present law

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

Explanation of provision

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

Reason for changes under Title V—Technical Corrections

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

Effective date for Title V—Technical Corrections

These provisions are effective upon enactment.

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

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

Present law

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

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

Explanation of provision

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

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

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

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

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

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

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

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

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

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

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

These provisions are effective upon enactment.

III. VOTES OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 5456, "Family First Prevention Services Act of 2016" on June 15, 2016.

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

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

IV. NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill does involve new budget authority or tax expenditure budget authority.

V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

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

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

A. Committee Oversight Findings and Recommendations

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

B. Statement of General Performance Goals and Objectives

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

C. Applicability of House Rule XXI 5(b)

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

D. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

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

E. Duplication of Federal Programs

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

F. Disclosure of Directed Rule Makings

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

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. Text of Existing Law Amended or Repealed by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

SOCIAL SECURITY ACT

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