

117TH CONGRESS
2D SESSION

H. R. 7416

To amend parts B and E of title IV of the Social Security Act to remove barriers and encourage kinship guardianship, foster, or adoptive placements for children who cannot be safely cared for in their own homes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2022

Ms. BASS (for herself, Ms. SCANLON, Mrs. CHERFILUS-McCORMICK, Mrs. HAYES, and Mrs. LAWRENCE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend parts B and E of title IV of the Social Security Act to remove barriers and encourage kinship guardianship, foster, or adoptive placements for children who cannot be safely cared for in their own homes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Perma-
5 nency Through Kinship Families Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) Reunification with parents, permanent
2 placement with extended family members, and adop-
3 tion are all permanency options for children who are
4 in, or at risk for entering or re-entering, foster care.

5 (2) The estimated lifetime cost of foster youth
6 who age out of foster care is approximately \$6.9 bil-
7 lion. On an annual basis, approximately 23,000
8 youth age out of foster care (reach the maximum
9 age a State will support them without reunification
10 with family or being placed in a permanent home)
11 with no legal family ties. Over 20 percent of youth
12 who age out of foster care become homeless, 60 per-
13 cent of sex trafficked youth come from foster care,
14 and 25 percent of youth become involved in the
15 criminal justice system within 2 years of aging out
16 of foster care. When family reunification and kinship
17 guardianship, foster, and adoptive placements are
18 promoted and supported, children's family connec-
19 tions and family relationships can reverse such ad-
20 verse adult outcomes.

21 (3) Foster care is intended to be temporary.
22 The best interests of children in safe, stable, and
23 permanent placements are paramount. At the same
24 time, absent aggravating circumstances, it is in the
25 best interests of children for parents to be provided

1 individualized services, supports, and time needed to
2 address the reasons for foster care or other tem-
3 porary placements of their children.

4 (4) Where kinship placements can safely be
5 made, extended family members available for such
6 placements often face financial and other barriers
7 related to access to health and mental health serv-
8 ices and supports, crisis stabilization services, and
9 other service supports.

10 (5) The United States has a unique and direct
11 interest, as trustee, in protecting the best interests
12 of Indian children including supporting safe and per-
13 manent placements that preserve a child's sense of
14 belonging and connection, including to extended
15 family when reunification with parents is not safe or
16 possible.

17 (b) PURPOSE.—The purposes of this Act are to pro-
18 mote kinship care as an essential permanency option for
19 children and youth, to remove barriers to children's safe
20 care by relatives and fictive kin when such children cannot
21 be safely cared for by their parents, and to support the
22 provision of resources and services to kin caregivers.

1 **SEC. 3. PROMOTING PERMANENCY PLACEMENTS FOR**
2 **CHILDREN AND YOUTH.**

3 (a) STATE PLAN REQUIREMENT RELATING TO PRO-
4 VISION OF CHILD WELFARE SERVICES.—Section
5 422(b)(7) of the Social Security Act (42 U.S.C. 622(b)(7))
6 is amended by striking “provide for the diligent recruit-
7 ment” and inserting “substantiate with clear and con-
8 vincing data and analysis that the agency administering
9 or supervising the administration of the plan is addressing
10 disproportionality in the State child welfare system, and
11 disparities in access to community-based services, array,
12 and contracting, provide for locating and involving rel-
13 atives and fictive kin as a regular and ongoing part of
14 case planning, for addressing barriers to family involve-
15 ment, and provide for the diligent recruitment”.

16 (b) FOSTER CARE AND ADOPTION ASSISTANCE.—
17 Section 471(a)(19) of such Act (42 U.S.C. 671(a)(19))
18 is amended by striking “shall consider” and inserting
19 “shall make and document prompt, active, and continuous
20 efforts to identify and locate relatives or fictive kin as a
21 potential kinship guardianship, foster or adoptive place-
22 ment, and family support resources, and must consider”.

23 (c) CASE REVIEW.—Section 475(5)(A) of such Act
24 (42 U.S.C. 675(5)(A)) is amended—

25 (1) in clause (i), by striking “, and” and insert-
26 ing a semicolon;

1 (2) in clause (ii), by striking the comma at the
2 end and inserting a semicolon; and

3 (3) by adding at the end the following:

4 “(iii) if the State determines that kin-
5 ship guardianship, foster, or adoptive
6 placement with any relative or fictive kin is
7 not in the child’s best interest or that the
8 relative or fictive kin does not meet the re-
9 quirements of a relative caregiver, docu-
10 ments the basis for that determination
11 with clear and convincing evidence;

12 “(iv) if the State determines that the
13 child requires placement in an environment
14 other than a home environment, ensures
15 that the State shall make prompt, active,
16 and continuous efforts to identify and lo-
17 cate relatives or fictive kin to serve as visi-
18 tation resources of the child and potential
19 future placement resources;

20 “(v) if the State determines that ef-
21 forts to identify and locate relatives and
22 fictive kin would be futile or inconsistent
23 with the child’s best interests, documents
24 the basis of its determination with clear
25 and convincing evidence; and

1 “(vi) if the child is residing in a kin-
2 ship placement, describes reasonable ef-
3 forts the State will make to maintain the
4 child in the kinship home and not remove
5 the child from the kinship home except to
6 effectuate a permanency goal of reunifica-
7 tion or upon a showing by clear and con-
8 vincing evidence that remaining in the kin-
9 ship placement is contrary to the welfare
10 of the child.”.

11 (d) GREATER FLEXIBILITY FOR STATES AND FAMI-
12 LIES.—Section 475(5)(E) of the Social Security Act (42
13 U.S.C. 675(5)(E)) is amended to read as follows:

14 “(E) in the case of a child who has been
15 in foster care under the responsibility of the
16 State for 24 consecutive months, or, if a court
17 of competent jurisdiction has determined a child
18 to be an abandoned infant (as defined under
19 State law) or has made a determination that
20 the parent has committed murder of another
21 child of the parent, committed voluntary man-
22 slaughter of another child of the parent, aided
23 or abetted, attempted, conspired, or solicited to
24 commit such a murder or such a voluntary
25 manslaughter, or committed a felony assault

1 that has resulted in serious bodily injury to the
2 child or to another child of the parent, the
3 State may file or join a petition for modification
4 or termination of parental rights and, concu-
5 rently, identify, recruit, process, and approve a
6 qualified family (including the child’s extended
7 family) for an adoption, only after dem-
8 onstrating by clear and convincing evidence that
9 the State—

10 “(i) has demonstrated compelling rea-
11 sons why such modification or termination
12 is in the best interest of the child;

13 “(ii) has provided to the family of the
14 child such services, supports, and time
15 needed to address the reasons for the
16 child’s removal and enable the family to
17 safely reunify; and

18 “(iii) if the child is living with a kin-
19 ship (including fictive kinship) caregiver,
20 has provided a meaningful opportunity for
21 such caregiver to express an opinion as to
22 whether such modification or termination
23 is in the best interests of the child and has
24 documented such opinion in the case plan
25 of the child;

1 except that, in the case of a child to whom this
2 subparagraph applies solely because the child
3 has been in foster care under the responsibility
4 of the State for 24 consecutive months, the
5 State may not file or join such a petition if a
6 parent of the child is actively engaged in serv-
7 ices to address the reasons the child entered
8 care (including treatment for substance use dis-
9 order, mental health concerns, or parenting
10 skills), if based principally on the incarceration
11 of a parent, or if based principally on the deten-
12 tion of the parent by the Department of Home-
13 land Security or the deportation of the par-
14 ent;”.

15 (e) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall take effect on the first day of the
18 first fiscal year beginning on or after the date of the
19 enactment of this Act, and shall apply to payments
20 under subpart 1 of part B and part E of title IV
21 of the Social Security Act for calendar quarters be-
22 ginning on or after such date.

23 (2) DELAY PERMITTED IF STATE LEGISLATION
24 REQUIRED.—If the Secretary of Health and Human
25 Services determines that State legislation (other

1 than legislation appropriating funds) is required in
2 order for a State plan developed pursuant to subpart
3 1 of part B or part E of title IV of the Social Secu-
4 rity Act to meet the additional requirements imposed
5 by the amendments made by this section, the plan
6 shall not be regarded as failing to meet any of the
7 additional requirements before the first day of the
8 first calendar quarter beginning after the first reg-
9 ular session of the State legislature that begins after
10 the date of the enactment of this Act. For purposes
11 of the preceding sentence, if the State has a 2-year
12 legislative session, each year of the session is deemed
13 to be a separate regular session of the State legisla-
14 ture.

15 (3) APPLICATION TO PROGRAMS OPERATED BY
16 INDIAN TRIBAL ORGANIZATIONS.—In the case of an
17 Indian tribe, tribal organization, or tribal consortium
18 which the Secretary of Health and Human Services
19 determines requires time to take action necessary to
20 comply with the additional requirements imposed by
21 the amendments made by this section (whether the
22 tribe, organization, or tribal consortium has a plan
23 under section 479B of the Social Security Act or a
24 cooperative agreement or contract entered into with
25 a State), the Secretary shall provide the tribe, orga-

1 nization, or tribal consortium with such additional
 2 time as the Secretary determines is necessary for the
 3 tribe, organization, or tribal consortium to take the
 4 action to comply with the additional requirements
 5 before being regarded as failing to comply with the
 6 requirements.

7 **SEC. 4. CRIMINAL RECORDS CHECKS OF ALL KINSHIP**
 8 **CAREGIVERS.**

9 (a) IN GENERAL.—Section 471(a)(20) of the Social
 10 Security Act (42 U.S.C. 671(a)(20)) is amended—

11 (1) in subparagraph (B)—

12 (A) in clause (ii), by striking “and” at the
 13 end;

14 (B) in clause (iii), by adding “and” at the
 15 end; and

16 (C) by adding at the end the following:

17 “(iv) have in place procedures to ensure
 18 that kinship placement is not denied based on
 19 past allegations or findings of abuse or neglect
 20 against a caregiver or household member in the
 21 absence of particularized information dem-
 22 onstrating that the caregiver poses a current
 23 safety threat to the child or that placement of
 24 the child with the caregiver would be contrary
 25 to the welfare of the child.”;

1 (2) in subparagraph (C), by striking “on any
2 relative guardian, and for checks” and all that fol-
3 lows through “under this part” and inserting “on
4 any kinship caregiver, including in the case of a kin-
5 ship foster, guardianship, or adoptive placement,
6 and for checks described in subparagraph (B) of this
7 paragraph on any such kinship caregiver and any
8 other adult living in the home of any such kinship
9 caregiver, before the kinship caregiver may receive
10 kinship guardianship assistance payments on behalf
11 of the child under the State plan under this part un-
12 less the State reports to the Secretary the alter-
13 native criminal records checks the State conducts on
14 any adult kinship caregiver, and why the checks
15 specified in this subparagraph are not appropriate
16 for the State, and procedures to ensure that a past
17 criminal record does not serve as a bar to kinship
18 licensing in the absence of particularized information
19 demonstrating that the caregiver or household mem-
20 ber poses a current safety threat to the child or that
21 placement of the child with the caregiver would be
22 contrary to the welfare of the child.”; and
23 (3) by moving the margins for subparagraph
24 (D) 2 ems to the left.

1 (b) NO EFFECT ON CHARACTER INVESTIGATIONS
 2 UNDER THE INDIAN CHILD PROTECTION AND FAMILY VI-
 3 OLENCE PREVENTION ACT.—Nothing in this Act or the
 4 amendments made by this Act shall be construed to mod-
 5 ify the requirements relating to character investigations
 6 of kin or extended family under the Indian Child Protec-
 7 tion and Family Violence Prevention Act.

8 **SEC. 5. PROHIBITION ON IMPOSITION OF UPPER AGE LIMIT**
 9 **FOR KINSHIP CAREGIVERS.**

10 Section 471(a) of such Act (42 U.S.C. 671(a)) is
 11 amended—

12 (1) in paragraph (36), by striking “and” at the
 13 end;

14 (2) in paragraph (37), by striking the period at
 15 the end and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(38) provides that the State shall have in ef-
 18 fect such laws and procedures as are necessary to
 19 ensure that the age of an individual who has at-
 20 tained 18 years of age is disregarded in deter-
 21 mining—

22 “(A) whether the individual is qualified to
 23 be a kinship caregiver for a child; and

1 “(B) the appropriate placement for a child
 2 for whom placement with a kinship caregiver
 3 may be an appropriate option.”.

4 **SEC. 6. MANDATORY PARTICIPATION IN KINSHIP GUARD-**
 5 **IANSHIP ASSISTANCE PROGRAM.**

6 (a) IN GENERAL.—Section 471(a)(28) of such Act
 7 (42 U.S.C. 671(a)(28)) is amended by striking “at the op-
 8 tion of the State,”.

9 (b) ELIGIBILITY.—Section 473(d)(3)(A)(i)(II) of the
 10 Social Security Act (42 U.S.C. 673(d)(3)(A)(i)(II)) is
 11 amended by striking “at least 6 consecutive months” and
 12 inserting “at least 3 consecutive months”.

13 **SEC. 7. ELIMINATION OF THE AFDC ELIGIBILITY REQUIRE-**
 14 **MENT FOR FOSTER CARE MAINTENANCE PAY-**
 15 **MENTS FOR CHILDREN PLACED IN A FOSTER**
 16 **FAMILY HOME.**

17 Section 472(a) of the Social Security Act (42 U.S.C.
 18 472(a)) is amended—

19 (1) in paragraph (1), in the matter preceding
 20 subparagraph (A), by striking “Each State” and in-
 21 serting “Subject to paragraph (5), each State”; and

22 (2) by adding at the end the following:

23 “(5) ELIMINATION OF THE AFDC ELIGIBILITY
 24 REQUIREMENT FOR CHILDREN PLACED IN A FOSTER
 25 FAMILY HOME.—Beginning on the first day of the

1 first fiscal year beginning on or after the date of the
 2 enactment of the Promoting Permanency Through
 3 Kinship Families Act, the AFDC eligibility require-
 4 ment of paragraph (3) shall no longer apply with re-
 5 spect to a child who has been removed from the
 6 home of a relative or a caretaker into foster care
 7 and placed in a foster family home. On and after
 8 such date, each State with a plan approved under
 9 this part shall make foster care maintenance pay-
 10 ments on behalf of each child who has been removed
 11 from the home of a relative or caretaker into foster
 12 care and placed in a foster family home (without re-
 13 gard to whether such removal and placement oc-
 14 curred before, on, or after such date of enactment,
 15 if the removal and foster care placement met, and
 16 continues to meet, the requirements of paragraph
 17 (2)).”.

18 **SEC. 8. PROMOTING SAFE AND STABLE FAMILIES**
 19 **THROUGH KINSHIP PLACEMENT SUPPORT**
 20 **SERVICES PROGRAMS.**

21 (a) ADDITION OF KINSHIP PLACEMENT SUPPORT
 22 SERVICES TO THE PROMOTING SAFE AND STABLE FAMI-
 23 LIES PROGRAM.—Section 431(a) of the Social Security
 24 Act (42 U.S.C. 629a(a)) is amended—

1 (1) in paragraph (1), by striking “(including
2 adoptive and extended families)” and inserting “(in-
3 cluding kinship guardians, adoptive, and extended
4 families).”;

5 (2) by adding at the end the following:

6 “(10) KINSHIP PLACEMENT SUPPORT SERV-
7 ICES.—

8 “(A) IN GENERAL.—The term ‘kinship
9 placement support services’ means the services
10 and activities described in subparagraph (B)
11 that are provided on behalf of children and
12 youth in kinship care arrangements, including
13 kinship guardianship placements, who are in, or
14 at risk of entering or re-entering, foster care.

15 “(B) SERVICES AND ACTIVITIES DE-
16 SCRIBED.—The services and activities described
17 in this subparagraph are the following:

18 “(i) Crisis stabilization services, in-
19 cluding case management services designed
20 to stabilize families in crisis such as trans-
21 portation, assistance with housing and util-
22 ity payments, and access to adequate
23 health care, child care assistance, edu-
24 cational resources, and establishing a kin-
25 ship placement crisis stabilization fund for

1 purposes of making direct cash payments
2 to kin caregivers for immediate needs of
3 children placed with such caregivers in
4 order to facilitate kinship placements and
5 prevent the entry of children into foster
6 care.

7 “(ii) Family finding, including inten-
8 sive family-finding efforts that utilize
9 search technology to find biological family
10 members for children in, or at risk of en-
11 tering, foster care.

12 “(iii) Re-establishing family relation-
13 ships and supporting family group deci-
14 sion-making.

15 “(iv) Other assistance or services re-
16 lated to strengthening and supporting kin-
17 ship families, including families led by sib-
18 lings, to improve the well-being of children
19 and their kin caregivers, and, if requested,
20 assistance in becoming a licensed foster
21 family home.”.

22 (b) MAINTENANCE OF EFFORT REQUIREMENT.—

23 Section 432(a)(7) of such Act (42 U.S.C. 629b(a)(7)) is
24 amended—

25 (1) in subparagraph (A)—

1 (A) by striking “assurances that Federal
2 funds” and inserting “assurances that—

3 “(i) Federal funds”; and

4 (B) by adding at the end the following:

5 “(ii) the total amount of State ex-
6 penditures made for fiscal year 2023 and
7 each fiscal year thereafter to support kin-
8 ship placements shall not be less than the
9 total amount of such expenditures made
10 for fiscal year 2022; and”; and

11 (2) in subparagraph (B), by inserting “and
12 spending requirements” after “prohibition”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 430 of such Act (42 U.S.C. 629) is
15 amended—

16 (A) in the matter preceding paragraph (1),
17 by inserting “kinship placement support serv-
18 ices,” after “family reunification services,”;

19 (B) by redesignating paragraphs (3) and
20 (4) as paragraphs (4) and (5), respectively; and

21 (C) by inserting after paragraph (2), the
22 following:

23 “(3) To support kinship placements to maintain
24 family connections while ensuring the safety and

1 well-being of children and youth and the well-being
2 of their kin caregivers.”.

3 (2) Paragraphs (4) and (5) of section 432(a) of
4 such Act (42 U.S.C. 629b(a)) are each amended by
5 inserting “kinship placement support services,” after
6 “family reunification services,”.

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