

(2) Spousal abuse;

(3) A crime against a child or children (including child pornography); or,

(4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(c) The title IV-E agency may not approve or license any prospective foster or adoptive parent, nor may the title IV-E agency claim FFP for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a child placing agency or on behalf of a child placed in an adoptive home through a private adoption agency, if the title IV-E agency finds, based on a criminal records check conducted in accordance with paragraph (a) of this section, that a court of competent jurisdiction has determined that the prospective foster or adoptive parent has, within the last five years, been convicted of a felony involving:

(1) Physical assault;

(2) Battery; or,

(3) A drug-related offense.

(d) [Reserved]

(e) In all cases where the State opted out of the criminal records check requirement, as permitted prior to the amendments made by section 152 of Public Law 109-248, the licensing file for that foster or adoptive family must contain documentation which verifies that safety considerations with respect to the caretaker(s) have been addressed.

(f) In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed.

[65 FR 4090, Jan. 25, 2000, as amended at 77 FR 949, Jan. 6, 2012]

**§ 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.**

(a) To implement the adoption assistance program provisions of the title IV-E plan and to be eligible for Federal financial participation in adoption assistance payments under this part, the title IV-E agency must meet the re-

quirements of this section and section 471(a), applicable provisions of section 473, and section 475(3) of the Act.

(b) The adoption assistance agreement for payments pursuant to section 473(a)(2) must meet the requirements of section 475(3) of the Act and must:

(1) Be signed and in effect at the time of or prior to the final decree of adoption. A copy of the signed agreement must be given to each party; and

(2) Specify its duration; and

(3) Specify the nature and amount of any payment, services and assistance to be provided under such agreement and, for purposes of eligibility under title XIX of the Act, specify that the child is eligible for Medicaid services; and

(4) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement shall remain in effect regardless of the place of residence of the adoptive parents at any given time.

(c) There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments.

(d) In the event an adoptive family moves from one place of residence to another, the family may apply for social services on behalf of the adoptive child in the new place of residence. If a needed service(s) specified in the adoption assistance agreement is not available in the new place of residence, the title IV-E agency making the original adoption assistance payment remains financially responsible for providing the specified service(s).

(e) A title IV-E agency may make an adoption assistance agreement with adopting parent(s) who reside in another State or a Tribal service area. If so, all provisions of this section apply.

(f) The title IV-E agency must actively seek ways to promote the adoption assistance program.

[48 FR 23116, May 23, 1983, as amended at 53 FR 50220, Dec. 14, 1988; 77 FR 949, Jan. 6, 2012]

**§ 1356.41 Nonrecurring expenses of adoption.**

(a) The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the