

lished under part IV-E of the Social Security Act (this part) and submit to Congress, not later than Oct. 1, 1983, a full and complete report thereon, together with his recommendations as to (A) whether such part IV-E should be continued, and if so, (B) the changes (if any) which should be made in such part IV-E.

§ 671. State plan for foster care and adoption assistance

(a) Requisite features of State plan

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) provides for foster care maintenance payments in accordance with section 672 of this title and for adoption assistance in accordance with section 673 of this title;

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

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

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this subchapter, under division A¹ of subchapter XX of this chapter, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

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

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

(8) subject to subsection (c), provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this subchapter or under subchapter I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this

chapter, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that the State agency will—

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

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

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this subchapter, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care;

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

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

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and

¹ See References in Text note below.

part B of this subchapter, which shall be conducted no less frequently than once every three years;

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

(15) provides that—

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

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

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

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

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

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

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

(ii) the parent has—

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

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

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

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

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

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

(i) a permanency hearing (as described in section 675(5)(C) of this title), which considers in-State and out-of-State permanent placement options for the child, shall be held for the child within 30 days after the determination; and

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

(F) reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-State and out-of-State placements² may be made concurrently with reasonable efforts of the type described in subparagraph (B);

(16) provides for the development of a case plan (as defined in section 675(1) of this title) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 675(5)(B) of this title with respect to each such child;

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

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

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

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

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

² So in original. Probably should be followed by a comma.

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A)¹ of title 28), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—

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

(ii) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and³

(B) provides that the State shall—

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

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

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

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A)¹ of title 28), on any

relative guardian, and for checks described in subparagraph (B) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part;

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

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

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

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under subchapter XIX of this chapter, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1396a(a)(10)(A)(i)(I) of this title; and

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

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

(23) provides that the State shall not—

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

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

(24) include⁴ a certification that, before a child in foster care under the responsibility of

³So in original. The word "and" probably should not appear.

⁴So in original. Probably should be "includes".

the State is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child;

(25) provide⁵ that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph;

(26) provides that—

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

(I) conduct and complete the study; and

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

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

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

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

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

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 672 of this title on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 673(d) of this title;

(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

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

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

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

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 673(d) of this title to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is—

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

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

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

⁵So in original. Probably should be “provides”.

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

(31) provides that reasonable efforts shall be made—

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

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

(32) provides that the State will negotiate in good faith with any Indian tribe, tribal organization or tribal consortium in the State that requests to develop an agreement with the State to administer all or part of the program under this part on behalf of Indian children who are under the authority of the tribe, organization, or consortium, including foster care maintenance payments on behalf of children who are placed in State or tribally licensed foster family homes, adoption assistance payments, and, if the State has elected to provide such payments, kinship guardianship assistance payments under section 673(d) of this title, and tribal access to resources for administration, training, and data collection under this part; and

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

(b) Approval of plan by Secretary

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

(c) Use of child welfare records in State court proceedings

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

(Aug. 14, 1935, ch. 531, title IV, §471, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 501; amended Pub. L. 97-35, title XXIII, §2353(r), Aug. 13, 1981, 95 Stat. 874; Pub. L. 97-248, title I, §160(d), Sept. 3, 1982, 96 Stat. 400; Pub. L. 98-378, §11(c), Aug. 16, 1984, 98 Stat. 1318; Pub. L. 99-514, title XVII, §1711(c)(2), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 100-485, title II, §202(c)(1), Oct. 13, 1988, 102 Stat. 2378; Pub. L. 101-508, title V,

§5054(b), Nov. 5, 1990, 104 Stat. 1388-229; Pub. L. 103-66, title XIII, §13711(b)(4), Aug. 10, 1993, 107 Stat. 655; Pub. L. 103-432, title II, §203(b), Oct. 31, 1994, 108 Stat. 4456; Pub. L. 104-188, title I, §1808(a), Aug. 20, 1996, 110 Stat. 1903; Pub. L. 104-193, title I, §108(d)(2), title V, §505, Aug. 22, 1996, 110 Stat. 2166, 2278; Pub. L. 105-33, title V, §5591(b), Aug. 5, 1997, 111 Stat. 643; Pub. L. 105-89, title I, §§101(a), 106, title III, §§306, 308, Nov. 19, 1997, 111 Stat. 2116, 2120, 2132, 2133; Pub. L. 105-200, title III, §301(a), July 16, 1998, 112 Stat. 658; Pub. L. 106-169, title I, §112(a), title IV, §401(o), Dec. 14, 1999, 113 Stat. 1829, 1859; Pub. L. 109-171, title VII, §7401(c), Feb. 8, 2006, 120 Stat. 150; Pub. L. 109-239, §§3, 4(a)(1), 10, July 3, 2006, 120 Stat. 508, 513; Pub. L. 109-248, title I, §152(a), (b), July 27, 2006, 120 Stat. 608, 609; Pub. L. 109-432, div. B, title IV, §405(c)(1)(B)(i), Dec. 20, 2006, 120 Stat. 2999; Pub. L. 110-351, title I, §§101(a), (c)(2)(A), (B)(i), 103, 104(a), title II, §§204(b), 206, title III, §301(c)(1)(A), title IV, §403, Oct. 7, 2008, 122 Stat. 3950-3952, 3956, 3957, 3960, 3962, 3969, 3979; Pub. L. 111-148, title VI, §6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803.)

REFERENCES IN TEXT

Parts A, B, and D of this subchapter, referred to in subsecs. (a)(2), (4), (8)-(10), (13), (17), (27) and (c), are classified to sections 601 et seq., 620 et seq., and 651 et seq., respectively, of this title.

Division A of subchapter XX, referred to in subsec. (a)(4), was in the original a reference to subtitle 1 of title XX, which was translated as if referring to subtitle A of title XX of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XX of this chapter, does not contain a subtitle 1.

Section 534(e)(3)(A) of title 28, referred to in subsec. (a)(20)(A), (C), was redesignated section 534(f)(3)(A) of title 28 by Pub. L. 109-248, title I, §153(i), July 27, 2006, 120 Stat. 611.

The Internal Revenue Code of 1986, referred to in subsec. (a)(33), is classified generally to Title 26, Internal Revenue Code.

CODIFICATION

Amendment by section 101(c)(2)(B)(i) of Pub. L. 110-351 was executed after amendment by section 101(c)(2)(A)(ii) of Pub. L. 110-351, notwithstanding section 101(c)(2)(B)(ii) of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note below, to reflect the probable intent of Congress.

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Subsec. (a)(10). Pub. L. 110-351, §104(a), substituted “civil rights, provides” for “civil rights, and provides” and inserted “, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care” before semicolon at end.

Subsec. (a)(20)(B). Pub. L. 110-351, §101(c)(2)(A)(i), which directed insertion of “and” at end of subpar. (C), was executed by making the insertion at end of subpar. (B), to reflect the probable intent of Congress and the redesignation of subpar. (C) as (B) by Pub. L. 109-248, §152(b)(2). See 2006 Amendment note below.

Subsec. (a)(20)(C). Pub. L. 110-351, §101(c)(2)(B)(i)(II), redesignated subpar. (D) as (C). See Codification note above.

Subsec. (a)(20)(D). Pub. L. 110-351, §101(c)(2)(B)(i)(II), redesignated subpar. (D) as (C). See Codification note above.

Pub. L. 110-351, §101(c)(2)(B)(i)(I), substituted “subparagraph (B)” for “subparagraph (C)”. See Codification note above.

- Pub. L. 110-351, §101(c)(2)(A)(ii), added subpar. (D).
- Subsec. (a)(28). Pub. L. 110-351, §101(a), added par. (28).
- Subsec. (a)(29). Pub. L. 110-351, §103, added par. (29).
- Subsec. (a)(30). Pub. L. 110-351, §204(b), added par. (30).
- Subsec. (a)(31). Pub. L. 110-351, §206, added par. (31).
- Subsec. (a)(32). Pub. L. 110-351, §301(c)(1)(A), added par. (32).
- Subsec. (a)(33). Pub. L. 110-351, §403, added par. (33).
- 2006—Subsec. (a)(8). Pub. L. 109-171, §7401(c)(1), inserted “subject to subsection (c),” after “(8)”.
- Subsec. (a)(15)(C). Pub. L. 109-239, §10(a), inserted “(including, if appropriate, through an interstate placement)” after “accordance with the permanency plan”.
- Subsec. (a)(15)(E)(i). Pub. L. 109-239, §10(b), inserted “, which considers in-State and out-of-State permanent placement options for the child,” before “shall”.
- Subsec. (a)(15)(F). Pub. L. 109-239, §10(c), inserted “, including identifying appropriate in-State and out-of-State placements” before “may”.
- Subsec. (a)(20)(A). Pub. L. 109-248, §152(b)(1), struck out “unless an election provided for in subparagraph (B) is made with respect to the State,” before “provides procedures” in introductory provisions.
- Pub. L. 109-248, §152(a)(1)(A)(i), which directed amendment of subpar. (A) by inserting “, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28),” after “criminal records checks” and substituting “regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child” for “on whose behalf foster care maintenance payments or adoption assistance payments are to be made” in the matter preceding “clause (I)”, was executed by making the insertion and substitution in the introductory provisions preceding cl. (i), to reflect the probable intent of Congress.
- Subsec. (a)(20)(A)(i), (ii). Pub. L. 109-248, §152(a)(1)(A)(ii), inserted “involving a child on whose behalf such payments are to be so made” after “in any case”.
- Subsec. (a)(20)(B). Pub. L. 109-248, §152(b)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “subparagraph (A) shall not apply to a State plan if, on or before September 30, 2005, the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if, on or before such date, the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State;”.
- Pub. L. 109-248, §152(a)(2), inserted “, on or before September 30, 2005,” after “plan if” and “, on or before such date,” after “or if”.
- Subsec. (a)(20)(C). Pub. L. 109-248, §152(b)(2), redesignated subpar. (C) as (B).
- Pub. L. 109-248, §152(a)(1)(B), added subpar. (C).
- Subsec. (a)(25). Pub. L. 109-239, §3, added par. (25).
- Subsec. (a)(26). Pub. L. 109-239, §4(a)(1), added par. (26).
- Subsec. (a)(27). Pub. L. 109-432 added par. (27).
- Subsec. (c). Pub. L. 109-171, §7401(c)(2), added subsec. (c).
- 1999—Subsec. (a)(8). Pub. L. 106-169, §401(o), struck out “(including activities under part F of this subchapter)” after “part A, B, or D of this subchapter”.
- Subsec. (a)(24). Pub. L. 106-169, §112(a), added par. (24).
- 1998—Subsec. (a)(23). Pub. L. 105-200 added par. (23).
- 1997—Subsec. (a)(15). Pub. L. 105-89, §101(a), amended par. (15) generally. Prior to amendment, par. (15) read as follows: “effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;”.
- Subsec. (a)(17). Pub. L. 105-33, §5591(b)(1), struck out “and” at end.
- Subsec. (a)(18). Pub. L. 105-33, §5591(b)(3), redesignated par. (18), relating to preference to adult relatives, as (19).
- Pub. L. 105-33, §5591(b)(2), substituted “; and” for period at end of par. (18) relating to denial or delay of adoption or foster care on basis of race, color, or national origin.
- Subsec. (a)(19). Pub. L. 105-33, §5591(b)(3), redesignated par. (18), relating to preference to adult relatives, as (19).
- Subsec. (a)(20). Pub. L. 105-89, §106, added par. (20).
- Subsec. (a)(21). Pub. L. 105-89, §306, added par. (21).
- Subsec. (a)(22). Pub. L. 105-89, §308, added par. (22).
- 1996—Subsec. (a)(17). Pub. L. 104-193, §108(d)(2), substituted “program funded under part A of this subchapter and plan approved under part D of this subchapter” for “plans approved under parts A and D of this subchapter”.
- Subsec. (a)(18). Pub. L. 104-193, §505(3), added par. (18) relating to preference to adult relatives.
- Pub. L. 104-188, §1808(a)(3), added par. (18) relating to denial or delay of adoption or foster care on basis of race, color, or national origin.
- 1994—Subsec. (b). Pub. L. 103-432 struck out after first sentence “However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a) of this section, or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.”
- 1993—Subsec. (a)(2). Pub. L. 103-66 substituted “subpart 1 of part B” for “part B”.
- 1990—Subsec. (a)(8)(E). Pub. L. 101-508, §5054(b)(2), added cl. (E).
- Subsec. (a)(9). Pub. L. 101-508, §5054(b)(1), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this subchapter is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;”.
- 1988—Subsec. (a)(8)(A). Pub. L. 100-485 substituted “part A, B, or D of this subchapter (including activities under part F of this subchapter)” for “part A, B, C, or D of this subchapter”.
- 1986—Subsec. (a)(1), (11). Pub. L. 99-514 substituted “adoption assistance” for “adoption assistance payments”.
- 1984—Subsec. (a)(17). Pub. L. 98-378 added par. (17).
- 1982—Subsec. (a)(10). Pub. L. 97-248 amended Pub. L. 97-35, §2353(r), generally. See 1981 Amendment note below.
- 1981—Subsec. (a)(10). Pub. L. 97-35, §2353(r), as amended by Pub. L. 97-248, §160(d), substituted provisions that in order for a State to be eligible for payments under this part a State plan must provide for establishment or designation of a State authority or authorities responsible for standards for foster family homes and child care institutions, such standards to be reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, for provisions that such State plan provide for the application of standards referred to in section 1397b(d)(1) of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-351, title I, §101(c)(2)(B)(ii), Oct. 7, 2008, 122 Stat. 3952, provided that: “The amendments made by

clause (i) [amending this section] shall take effect immediately after the amendments made by section 152 of Public Law 109-248 [amending this section] take effect.”

Pub. L. 110-351, title III, §301(f), Oct. 7, 2008, 122 Stat. 3971, provided that: “The amendments made by subsections (a), (b), and (c) [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] shall take effect on October 1, 2009, without regard to whether the regulations required under subsection (e)(1) [set out as a Regulations note below] have been promulgated by such date.”

Pub. L. 110-351, title VI, §601, Oct. 7, 2008, 122 Stat. 3981, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act [see Short Title of 2008 Amendment note set out under section 1305 of this title], each amendment made by this Act to part B or E of title IV of the Social Security Act [part B of this subchapter and this part] shall take effect on the date of the enactment of this Act [Oct. 7, 2008], and shall apply to payments under the part amended for quarters beginning on or after the effective date of the amendment.

“(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under part B or E of title IV of the Social Security Act [part B of this subchapter and this part] which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that ends after the 1-year period beginning with the date of the enactment of this Act [Oct. 7, 2008]. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. B, title IV, §405(c)(1)(B)(iii), Dec. 20, 2006, 120 Stat. 2999, provided that: “The amendments made by this subparagraph [amending this section and section 1320a-2a of this title] shall take effect on the date that is 6 months after the date of the enactment of this Act [Dec. 20, 2006].”

Pub. L. 109-248, title I, §152(c), July 27, 2006, 120 Stat. 609, provided that:

“(1) GENERAL.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply with respect to payments under part E of title IV of the Social Security Act [this part] for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

“(2) ELIMINATION OF OPT-OUT.—The amendments made by subsection (b) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

“(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under section 471 of the Social Security Act [this section] to meet the additional requirements imposed by the amendments made by a subsection of this section, the plan shall not be regarded as failing to meet any of the additional requirements before the first day of the first calendar quarter beginning after the first regular session of the State legislature that begins after the otherwise applicable effective date of the amendments. If the State has a 2-year legislative

session, each year of the session is deemed to be a separate regular session of the State legislature.”

Amendment by Pub. L. 109-239 effective Oct. 1, 2006, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after Oct. 1, 2006, without regard to whether regulations have been promulgated by Oct. 1, 2006, and with delay permitted if State legislation is required, see section 14 of Pub. L. 109-239, set out as a note under section 622 of this title.

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-169, title I, §112(b), Dec. 14, 1999, 113 Stat. 1829, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1999.”

Amendment by section 401(o) of Pub. L. 106-169 effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 401(q) of Pub. L. 106-169, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-200, title III, §301(d), July 16, 1998, 112 Stat. 658, provided that: “The amendments made by this section [amending this section and section 674 of this title] shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2125) [see Effective Date of 1997 Amendments note below].”

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

Amendment by Pub. L. 105-33 effective as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5593 of Pub. L. 105-33, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 108(d)(2) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 203(c)(2) of Pub. L. 103-432 provided that: “The amendment made by subsection (b) [amending this section] shall take effect on October 1, 1995.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective with respect to calendar quarters beginning on or after Oct. 1, 1993, see section 13711(c) of Pub. L. 103-66, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5054(c) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and section 602 of this title] shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 204 of title II of Pub. L. 100-485 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title [enacting sections 681 to 687 of this title, amending this section, sections 602, 603, 607, 1308, 1396a, and 1396s of this title, and section 51 of Title 26, Internal Revenue Code, repealing sections 609, 614, 630 to 632, and 633 to 645 of this title, and enacting provisions set out as notes under section 681 of this title] shall become effective on October 1, 1990.

“(b) SPECIAL RULES.—(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act [section 602 of this title] that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 203(a) [42 U.S.C. 671 note] (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

“(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quarter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal year under section 403(k)(2) of the Social Security Act [section 603(k)(2) of this title] (as added by section 201(c)(1) of this Act) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to 4.

“(2) Section 403(l)(3) of the Social Security Act [section 603(l)(3) of this title] (as added by section 201(c)(2) of this Act) is repealed effective October 1, 1995 (except that subparagraph (A) of such section 403(l)(3) shall remain in effect for purposes of applying any reduction in payment rates required by such subparagraph for any of the fiscal years specified therein); and section 403(l)(4) of such Act (as so added) is repealed effective October 1, 1998.

“(3) Subsections (a), (c), and (d) of section 203 of this Act [42 U.S.C. 671 note, 681 notes], and section 486 of the Social Security Act [section 686 of this title] (as added by section 201(b) of this Act), shall become effective on the date of the enactment of this Act [Oct. 13, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable only with respect to expenditures made after Dec. 31, 1986, see section 1711(d) of Pub. L. 99-514, set out as a note under section 670 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-378 effective Oct. 1, 1984, and applicable to collections made on or after that date, see section 11(e) of Pub. L. 98-378, set out as a note under section 654 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Oct. 1, 1981, see section 160(e) of Pub. L. 97-248, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

REGULATIONS

Pub. L. 110-351, title III, §301(e), Oct. 7, 2008, 122 Stat. 3970, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, not later than 1 year after the date

of enactment of this section [Oct. 7, 2008], the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, tribal consortia, and affected States, shall promulgate interim final regulations to carry out this section [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] and the amendments made by this section. Such regulations shall include procedures to ensure that a transfer of responsibility for the placement and care of a child under a State plan approved under section 471 of the Social Security Act [42 U.S.C. 671] to a tribal plan approved under section 471 of such Act in accordance with section 479B of such Act [42 U.S.C. 679c] (as added by subsection (a)(1) of this section) or to an Indian tribe, a tribal organization, or a tribal consortium that has entered into a cooperative agreement or contract with a State for the administration or payment of funds under part E of title IV of such Act [this part] does not affect the eligibility of, provision of services for, or the making of payments on behalf of, such children under part E of title IV of such Act, or the eligibility of such children for medical assistance under title XIX of such Act [subchapter XIX of this chapter].

“(2) IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR PURPOSES OF DETERMINING NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING EXPENDITURES.—

“(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, not later than September 30, 2011, the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, and tribal consortia, shall promulgate interim final regulations specifying the types of in-kind expenditures, including plants, equipment, administration, and services, and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act [42 U.S.C. 671] in accordance with section 479B of such Act [42 U.S.C. 679c], up to such percentages as the Secretary, in such consultation shall specify in such regulations, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for [sic] under any subparagraph of section 474(a)(3) of such Act [42 U.S.C. 674(a)(3)].

“(B) EFFECTIVE DATE.—In no event shall the regulations required to be promulgated under subparagraph (A) take effect prior to October 1, 2011.

“(C) SENSE OF THE CONGRESS.—It is the sense of the Congress that if the Secretary of Health and Human Services fails to publish in the Federal Register the regulations required under subparagraph (A) of this paragraph, the Congress should enact legislation specifying the types of in-kind expenditures and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act [42 U.S.C. 671] in accordance with section 479B of such Act [42 U.S.C. 679c], up to specific percentages, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for [sic] under any subparagraph of section 474(a)(3) of such Act [42 U.S.C. 674(a)(3)].”

Section 203(a) of title II of Pub. L. 100-485 provided that: “Not later than 6 months after the date of the enactment of this Act [Oct. 13, 1988], the Secretary of Health and Human Services (in this section referred to as the ‘Secretary’) shall issue proposed regulations for the purpose of implementing the amendments made by this title [see Effective Date of 1988 Amendment note above], including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of the enactment of this Act. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies de-

scribed in section 482(a)(2) of the Social Security Act [section 682(a)(2) of this title].”

CONSTRUCTION OF 2008 AMENDMENT

Pub. L. 110-351, title III, §301(d), Oct. 7, 2008, 122 Stat. 3970, provided that: “Nothing in the amendments made by this section [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] shall be construed as—

“(1) authorization to terminate funding on behalf of any Indian child receiving foster care maintenance payments or adoption assistance payments on the date of enactment of this Act [Oct. 7, 2008] and for which the State receives Federal matching payments under paragraph (1) or (2) of section 474(a) of the Social Security Act (42 U.S.C. 674(a)), regardless of whether a cooperative agreement or contract between the State and an Indian tribe, tribal organization, or tribal consortium is in effect on such date or an Indian tribe, tribal organization, or tribal consortium elects subsequent to such date to operate a program under section 479B of such Act [42 U.S.C. 679c] (as added by subsection (a) of this section); or

“(2) affecting the responsibility of a State—

“(A) as part of the plan approved under section 471 of the Social Security Act (42 U.S.C. 671), to provide foster care maintenance payments, adoption assistance payments, and if the State elects, kinship guardianship assistance payments, for Indian children who are eligible for such payments and who are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to a program under such section 479B of such Act or a cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under part E of title IV of such Act [this part]; or

“(B) as part of the plan approved under section 477 of such Act (42 U.S.C. 677) to administer, supervise, or oversee programs carried out under that plan on behalf of Indian children who are eligible for such programs if such children are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to an approved plan under section 477(j) of such Act [42 U.S.C. 677(j)] or a cooperative agreement or contract entered into under section 477(b)(3)(G) of such Act [42 U.S.C. 677(b)(3)(G)].”

NO FEDERAL FUNDING TO UNLAWFULLY PRESENT INDIVIDUALS

Pub. L. 110-351, title V, §503, Oct. 7, 2008, 122 Stat. 3981, provided that: “Nothing in this Act [see Short Title of 2008 Amendment note set out under section 1305 of this title] shall be construed to alter prohibitions on Federal payments to individuals who are unlawfully present in the United States.”

PRESERVATION OF REASONABLE PARENTING

Section 401 of Pub. L. 105-89 provided that: “Nothing in this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.”

REPORTING REQUIREMENTS

Section 402 of Pub. L. 105-89 provided that: “Any information required to be reported under this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regula-

tions issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.”

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Section 406 of Pub. L. 105-89 provided that:

“(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] should be American-made.

“(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.”

§ 672. Foster care maintenance payments program

(a) In general

(1) Eligibility

Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) into foster care if—

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

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

(2) Removal and foster care placement requirements

The removal and foster care placement of a child meet the requirements of this paragraph if—

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

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

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 671(a)(15) of this title for a child have been made;

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

(i) the State agency administering the State plan approved under section 671 of this title;

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

(iii) an Indian tribe or a tribal organization (as defined in section 679c(a) of this title) or a tribal consortium that has a plan approved under section 671 of this