

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date of section, see section 395(a)–(c) of Pub. L. 104–193, set out as an Effective Date of 1996 Amendment note under section 654 of this title.

§ 669b. Grants to States for access and visitation programs**(a) In general**

The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

(b) Amount of grant

The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

- (1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or
- (2) the allotment of the State under subsection (c) for the fiscal year.

(c) Allotments to States**(1) In general**

The allotment of a State for a fiscal year is the amount that bears the same ratio to \$10,000,000 for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

(2) Minimum allotment

The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

- (A) \$50,000 for fiscal year 1997 or 1998; or
- (B) \$100,000 for any succeeding fiscal year.

(d) No supplantation of State expenditures for similar activities

A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

(e) State administration

Each State to which a grant is made under this section—

- (1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;
- (2) shall not be required to operate such programs on a statewide basis; and
- (3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

(Aug. 14, 1935, ch. 531, title IV, § 469B, as added Pub. L. 104–193, title III, § 391, Aug. 22, 1996, 110 Stat. 2258.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date of section, see section 395(a)–(c) of Pub. L. 104–193, set out as an Effective Date of 1996 Amendment note under section 654 of this title.

PART E—FEDERAL PAYMENTS FOR FOSTER CARE, PREVENTION, AND PERMANENCY

Editorial Notes

CODIFICATION

Pub. L. 115–123, div. E, title VII, § 50733(a), Feb. 9, 2018, 132 Stat. 252, substituted “Federal Payments for Foster Care, Prevention, and Permanency” for “Federal Payments for Foster Care and Adoption Assistance” in part heading.

§ 670. Congressional declaration of purpose; authorization of appropriations

For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would have been eligible for assistance under the State's plan approved under part A (as such plan was in effect on June 1, 1995), adoption assistance for children with special needs, kinship guardianship assistance, and prevention services or programs specified in section 671(e)(1) of this title, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

(Aug. 14, 1935, ch. 531, title IV, § 470, as added Pub. L. 96–272, title I, § 101(a)(1), June 17, 1980, 94 Stat. 501; amended Pub. L. 99–272, title XII, § 12307(d), Apr. 7, 1986, 100 Stat. 297; Pub. L. 99–514, title XVII, § 1711(c)(1), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 104–193, title I, § 108(d)(1), Aug. 22, 1996, 110 Stat. 2166; Pub. L. 115–123, div. E, title VII, § 50733(b), Feb. 9, 2018, 132 Stat. 252.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–123 substituted “June 1, 1995), adoption assistance for children with special needs, kinship guardianship assistance, and prevention services or programs specified in section 671(e)(1) of this title, there are authorized to be appropriated for each fiscal year such sums” for “June 1, 1995) and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums”.

1996—Pub. L. 104–193 substituted “would have been eligible” for “would be eligible” and inserted “(as such plan was in effect on June 1, 1995)” after “part A”.

1986—Pub. L. 99–514 substituted “foster care and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs” for “foster care, adoption assistance, and transitional independent liv-

ing programs for children who otherwise would be eligible for assistance under the State's plan approved under part A (or, in the case of adoption assistance, would be eligible for benefits under subchapter XVI of this chapter)".

Pub. L. 99-272 substituted "foster care, adoption assistance, and transitional independent living programs" for "foster care and adoption assistance".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-123 effective Feb. 9, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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 1986 AMENDMENT

Pub. L. 99-514, title XVII, §1711(d), Oct. 22, 1986, 100 Stat. 2784, provided that: "The amendments made by this section [amending this section and sections 671, 673, and 675 of this title] shall apply only with respect to expenditures made after December 31, 1986."

STRENGTHENING ABUSE AND NEGLECT COURTS

Pub. L. 106-314, Oct. 17, 2000, 114 Stat. 1266, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Strengthening Abuse and Neglect Courts Act of 2000'.

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) Under both Federal and State law, the courts play a crucial and essential role in the Nation's child welfare system and in ensuring safety, stability, and permanence for abused and neglected children under the supervision of that system.

"(2) The Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115) [see Short Title of 1997 Amendment note set out under section 1305 of this title] establishes explicitly for the first time in Federal law that a child's health and safety must be the paramount consideration when any decision is made regarding a child in the Nation's child welfare system.

"(3) The Adoption and Safe Families Act of 1997 promotes stability and permanence for abused and neglected children by requiring timely decision-making in proceedings to determine whether children can safely return to their families or whether they should be moved into safe and stable adoptive homes or other permanent family arrangements outside the foster care system.

"(4) To avoid unnecessary and lengthy stays in the foster care system, the Adoption and Safe Families Act of 1997 specifically requires, among other things, that States move to terminate the parental rights of the parents of those children who have been in foster care for 15 of the last 22 months.

"(5) While essential to protect children and to carry out the general purposes of the Adoption and Safe Families Act of 1997, the accelerated timelines for the termination of parental rights and the other requirements imposed under that Act increase the pressure

on the Nation's already overburdened abuse and neglect courts.

"(6) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would be substantially improved by the acquisition and implementation of computerized case-tracking systems to identify and eliminate existing backlogs, to move abuse and neglect caseloads forward in a timely manner, and to move children into safe and stable families. Such systems could also be used to evaluate the effectiveness of such courts in meeting the purposes of the amendments made by, and provisions of, the Adoption and Safe Families Act of 1997.

"(7) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would also be improved by the identification and implementation of projects designed to eliminate the backlog of abuse and neglect cases, including the temporary hiring of additional judges, extension of court hours, and other projects designed to reduce existing caseloads.

"(8) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would be further strengthened by improving the quality and availability of training for judges, court personnel, agency attorneys, guardians ad litem, volunteers who participate in court-appointed special advocate (CASA) programs, and attorneys who represent the children and the parents of children in abuse and neglect proceedings.

"(9) While recognizing that abuse and neglect courts in this country are already committed to the quality administration of justice, the performance of such courts would be even further enhanced by the development of models and educational opportunities that reinforce court projects that have already been developed, including models for case-flow procedures, case management, representation of children, automated interagency interfaces, and 'best practices' standards.

"(10) Judges, magistrates, commissioners, and other judicial officers play a central and vital role in ensuring that proceedings in our Nation's abuse and neglect courts are run efficiently and effectively. The performance of those individuals in such courts can only be further enhanced by training, seminars, and an ongoing opportunity to exchange ideas with their peers.

"(11) Volunteers who participate in court-appointed special advocate (CASA) programs play a vital role as the eyes and ears of abuse and neglect courts in proceedings conducted by, or under the supervision of, such courts and also bring increased public scrutiny of the abuse and neglect court system. The Nation's abuse and neglect courts would benefit from an expansion of this program to currently underserved communities.

"(12) Improved computerized case-tracking systems, comprehensive training, and development of, and education on, model abuse and neglect court systems, particularly with respect to underserved areas, would significantly further the purposes of the Adoption and Safe Families Act of 1997 by reducing the average length of an abused and neglected child's stay in foster care, improving the quality of decision-making and court services provided to children and families, and increasing the number of adoptions.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) ABUSE AND NEGLECT COURTS.—The term 'abuse and neglect courts' means the State and local courts that carry out State or local laws requiring proceedings (conducted by or under the supervision of the courts)—

"(A) that implement part B and part E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.) (including preliminary disposition of such proceedings);

"(B) that determine whether a child was abused or neglected;

“(C) that determine the advisability or appropriateness of placement in a family foster home, group home, or a special residential care facility; or
 “(D) that determine any other legal disposition of a child in the abuse and neglect court system.

“(2) AGENCY ATTORNEY.—The term ‘agency attorney’ means an attorney or other individual, including any government attorney, district attorney, attorney general, State attorney, county attorney, city solicitor or attorney, corporation counsel, or privately retained special prosecutor, who represents the State or local agency administering the programs under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.) in a proceeding conducted by, or under the supervision of, an abuse and neglect court, including a proceeding for termination of parental rights.

“SEC. 4. GRANTS TO STATE COURTS AND LOCAL COURTS TO AUTOMATE THE DATA COLLECTION AND TRACKING OF PROCEEDINGS IN ABUSE AND NEGLECT COURTS.

“(a) AUTHORITY TO AWARD GRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Attorney General, acting through the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs, shall award grants in accordance with this section to State courts and local courts for the purposes of—

“(A) enabling such courts to develop and implement automated data collection and case-tracking systems for proceedings conducted by, or under the supervision of, an abuse and neglect court;

“(B) encouraging the replication of such systems in abuse and neglect courts in other jurisdictions; and

“(C) requiring the use of such systems to evaluate a court’s performance in implementing the requirements of parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.).

“(2) LIMITATIONS.—

“(A) NUMBER OF GRANTS.—Not less than 20 nor more than 50 grants may be awarded under this section.

“(B) PER STATE LIMITATION.—Not more than 2 grants authorized under this section may be awarded per State.

“(C) USE OF GRANTS.—Funds provided under a grant made under this section may only be used for the purpose of developing, implementing, or enhancing automated data collection and case-tracking systems for proceedings conducted by, or under the supervision of, an abuse and neglect court.

“(b) APPLICATION.—

“(1) IN GENERAL.—A State court or local court may submit an application for a grant authorized under this section at such time and in such manner as the Attorney General may determine.

“(2) INFORMATION REQUIRED.—An application for a grant authorized under this section shall contain the following:

“(A) A description of a proposed plan for the development, implementation, and maintenance of an automated data collection and case-tracking system for proceedings conducted by, or under the supervision of, an abuse and neglect court, including a proposed budget for the plan and a request for a specific funding amount.

“(B) A description of the extent to which such plan and system are able to be replicated in abuse and neglect courts of other jurisdictions that specifies the common case-tracking data elements of the proposed system, including, at a minimum—

“(i) identification of relevant judges, court, and agency personnel;

“(ii) records of all court proceedings with regard to the abuse and neglect case, including all court findings and orders (oral and written); and

“(iii) relevant information about the subject child, including family information and the reason for court supervision.

“(C) In the case of an application submitted by a local court, a description of how the plan to implement the proposed system was developed in consultation with related State courts, particularly with regard to a State court improvement plan funded under section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) [now 42 U.S.C. 629h] if there is such a plan in the State.

“(D) In the case of an application that is submitted by a State court, a description of how the proposed system will integrate with a State court improvement plan funded under section 13712 of such Act if there is such a plan in the State.

“(E) After consultation with the State agency responsible for the administration of parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.)—

“(i) a description of the coordination of the proposed system with other child welfare data collection systems, including the statewide automated child welfare information system (SACWIS) and the adoption and foster care analysis and reporting system (AFCARS) established pursuant to section 479 of the Social Security Act (42 U.S.C. 679); and

“(ii) an assurance that such coordination will be implemented and maintained.

“(F) Identification of an independent third party that will conduct ongoing evaluations of the feasibility and implementation of the plan and system and a description of the plan for conducting such evaluations.

“(G) A description or identification of a proposed funding source for completion of the plan (if applicable) and maintenance of the system after the conclusion of the period for which the grant is to be awarded.

“(H) An assurance that any contract entered into between the State court or local court and any other entity that is to provide services for the development, implementation, or maintenance of the system under the proposed plan will require the entity to agree to allow for replication of the services provided, the plan, and the system, and to refrain from asserting any proprietary interest in such services for purposes of allowing the plan and system to be replicated in another jurisdiction.

“(I) An assurance that the system established under the plan will provide data that allows for evaluation (at least on an annual basis) of the following information:

“(i) The total number of cases that are filed in the abuse and neglect court.

“(ii) The number of cases assigned to each judge who presides over the abuse and neglect court.

“(iii) The average length of stay of children in foster care.

“(iv) With respect to each child under the jurisdiction of the court—

“(I) the number of episodes of placement in foster care;

“(II) the number of days placed in foster care and the type of placement (foster family home, group home, or special residential care facility);

“(III) the number of days of in-home supervision; and

“(IV) the number of separate foster care placements.

“(v) The number of adoptions, guardianships, or other permanent dispositions finalized.

“(vi) The number of terminations of parental rights.

“(vii) The number of child abuse and neglect proceedings closed that had been pending for 2 or more years.

“(viii) With respect to each proceeding conducted by, or under the supervision of, an abuse and neglect court—

“(I) the timeliness of each stage of the proceeding from initial filing through legal final-

ization of a permanency plan (for both contested and uncontested hearings);

“(II) the number of adjournments, delays, and continuances occurring during the proceeding, including identification of the party requesting each adjournment, delay, or continuance and the reasons given for the request;

“(III) the number of courts that conduct or supervise the proceeding for the duration of the abuse and neglect case;

“(IV) the number of judges assigned to the proceeding for the duration of the abuse and neglect case; and

“(V) the number of agency attorneys, children’s attorneys, parent’s attorneys, guardians ad litem, and volunteers participating in a court-appointed special advocate (CASA) program assigned to the proceeding during the duration of the abuse and neglect case.

“(J) A description of how the proposed system will reduce the need for paper files and ensure prompt action so that cases are appropriately listed with national and regional adoption exchanges, and public and private adoption services.

“(K) An assurance that the data collected in accordance with subparagraph (I) will be made available to relevant Federal, State, and local government agencies and to the public.

“(L) An assurance that the proposed system is consistent with other civil and criminal information requirements of the Federal Government.

“(M) An assurance that the proposed system will provide notice of timeframes required under the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115) for individual cases to ensure prompt attention and compliance with such requirements.

“(c) CONDITIONS FOR APPROVAL OF APPLICATIONS.—

“(1) MATCHING REQUIREMENT.—

“(A) IN GENERAL.—A State court or local court awarded a grant under this section shall expend \$1 for every \$3 awarded under the grant to carry out the development, implementation, and maintenance of the automated data collection and case-tracking system under the proposed plan.

“(B) WAIVER FOR HARDSHIP.—The Attorney General may waive or modify the matching requirement described in subparagraph (A) in the case of any State court or local court that the Attorney General determines would suffer undue hardship as a result of being subject to the requirement.

“(C) NON-FEDERAL EXPENDITURES.—

“(i) CASH OR IN KIND.—State court or local court expenditures required under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

“(ii) NO CREDIT FOR PRE-AWARD EXPENDITURES.—Only State court or local court expenditures made after a grant has been awarded under this section may be counted for purposes of determining whether the State court or local court has satisfied the matching expenditure requirement under subparagraph (A).

“(2) NOTIFICATION TO STATE OR APPROPRIATE CHILD WELFARE AGENCY.—No application for a grant authorized under this section may be approved unless the State court or local court submitting the application demonstrates to the satisfaction of the Attorney General that the court has provided the State, in the case of a State court, or the appropriate child welfare agency, in the case of a local court, with notice of the contents and submission of the application.

“(3) CONSIDERATIONS.—In evaluating an application for a grant under this section the Attorney General shall consider the following:

“(A) The extent to which the system proposed in the application may be replicated in other jurisdictions.

“(B) The extent to which the proposed system is consistent with the provisions of, and amendments

made by, the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115), and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.).

“(C) The extent to which the proposed system is feasible and likely to achieve the purposes described in subsection (a)(1).

“(4) DIVERSITY OF AWARDS.—The Attorney General shall award grants under this section in a manner that results in a reasonable balance among grants awarded to State courts and grants awarded to local courts, grants awarded to courts located in urban areas and courts located in rural areas, and grants awarded in diverse geographical locations.

“(d) LENGTH OF AWARDS.—No grant may be awarded under this section for a period of more than 5 years.

“(e) AVAILABILITY OF FUNDS.—Funds provided to a State court or local court under a grant awarded under this section shall remain available until expended without fiscal year limitation.

“(f) REPORTS.—

“(1) ANNUAL REPORT FROM GRANTEEES.—Each State court or local court that is awarded a grant under this section shall submit an annual report to the Attorney General that contains—

“(A) a description of the ongoing results of the independent evaluation of the plan for, and implementation of, the automated data collection and case-tracking system funded under the grant; and

“(B) the information described in subsection (b)(2)(I).

“(2) INTERIM AND FINAL REPORTS FROM ATTORNEY GENERAL.—

“(A) INTERIM REPORTS.—Beginning 2 years after the date of enactment of this Act [Oct. 17, 2000], and biannually thereafter until a final report is submitted in accordance with subparagraph (B), the Attorney General shall submit to Congress interim reports on the grants made under this section.

“(B) FINAL REPORT.—Not later than 90 days after the termination of all grants awarded under this section, the Attorney General shall submit to Congress a final report evaluating the automated data collection and case-tracking systems funded under such grants and identifying successful models of such systems that are suitable for replication in other jurisdictions. The Attorney General shall ensure that a copy of such final report is transmitted to the highest State court in each State.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for the period of fiscal years 2001 through 2005.

“SEC. 5. GRANTS TO REDUCE PENDING BACKLOGS OF ABUSE AND NEGLECT CASES TO PROMOTE PERMANENCY FOR ABUSED AND NEGLECTED CHILDREN.

“(a) AUTHORITY TO AWARD GRANTS.—The Attorney General, acting through the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs and in collaboration with the Secretary of Health and Human Services, shall award grants in accordance with this section to State courts and local courts for the purposes of—

“(1) promoting the permanency goals established in the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115); and

“(2) enabling such courts to reduce existing backlogs of cases pending in abuse and neglect courts, especially with respect to cases to terminate parental rights and cases in which parental rights to a child have been terminated but an adoption of the child has not yet been finalized.

“(b) APPLICATION.—A State court or local court shall submit an application for a grant under this section, in such form and manner as the Attorney General shall require, that contains a description of the following:

“(1) The barriers to achieving the permanency goals established in the Adoption and Safe Families Act of 1997 that have been identified.

“(2) The size and nature of the backlogs of children awaiting termination of parental rights or finalization of adoption.

“(3) The strategies the State court or local court proposes to use to reduce such backlogs and the plan and timetable for doing so.

“(4) How the grant funds requested will be used to assist the implementation of the strategies described in paragraph (3).

“(c) USE OF FUNDS.—Funds provided under a grant awarded under this section may be used for any purpose that the Attorney General determines is likely to successfully achieve the purposes described in subsection (a), including temporarily—

“(1) establishing night court sessions for abuse and neglect courts;

“(2) hiring additional judges, magistrates, commissioners, hearing officers, referees, special masters, and other judicial personnel for such courts;

“(3) hiring personnel such as clerks, administrative support staff, case managers, mediators, and attorneys for such courts; or

“(4) extending the operating hours of such courts.

“(d) NUMBER OF GRANTS.—Not less than 15 nor more than 20 grants shall be awarded under this section.

“(e) AVAILABILITY OF FUNDS.—Funds awarded under a grant made under this section shall remain available for expenditure by a grantee for a period not to exceed 3 years from the date of the grant award.

“(f) REPORT ON USE OF FUNDS.—Not later than the date that is halfway through the period for which a grant is awarded under this section, and 90 days after the end of such period, a State court or local court awarded a grant under this section shall submit a report to the Attorney General that includes the following:

“(1) The barriers to the permanency goals established in the Adoption and Safe Families Act of 1997 that are or have been addressed with grant funds.

“(2) The nature of the backlogs of children that were pursued with grant funds.

“(3) The specific strategies used to reduce such backlogs.

“(4) The progress that has been made in reducing such backlogs, including the number of children in such backlogs—

“(A) whose parental rights have been terminated; and

“(B) whose adoptions have been finalized.

“(5) Any additional information that the Attorney General determines would assist jurisdictions in achieving the permanency goals established in the Adoption and Safe Families Act of 1997.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the period of fiscal years 2001 and 2002 \$10,000,000 for the purpose of making grants under this section.

“SEC. 6. GRANTS TO EXPAND THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM IN UNDERSERVED AREAS.

“(a) GRANTS TO EXPAND CASA PROGRAMS IN UNDERSERVED AREAS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall make a grant to the National Court-Appointed Special Advocate Association for the purposes of—

“(1) expanding the recruitment of, and building the capacity of, court-appointed special advocate programs located in the 15 largest urban areas;

“(2) developing regional, multijurisdictional court-appointed special advocate programs serving rural areas; and

“(3) providing training and supervision of volunteers in court-appointed special advocate programs.

“(b) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—Not more than 5 percent of the grant made under this subsection may be used for administrative expenditures.

“(c) DETERMINATION OF URBAN AND RURAL AREAS.—For purposes of administering the grant authorized

under this subsection, the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall determine whether an area is one of the 15 largest urban areas or a rural area in accordance with the practices of, and statistical information compiled by, the Bureau of the Census.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make the grant authorized under this section, \$5,000,000 for the period of fiscal years 2001 and 2002.”

ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION

Pub. L. 103-66, title XIII, §13712, Aug. 10, 1993, 107 Stat. 655, as amended by Pub. L. 105-89, title III, §305(a)(3), Nov. 19, 1997, 111 Stat. 2130; Pub. L. 107-133, title I, §107(a)-(d), Jan. 17, 2002, 115 Stat. 2418, which was formerly set out as a note under this section, was renumbered section 438 of the Social Security Act by Pub. L. 107-133, title I, §107(e), Jan. 17, 2002, 115 Stat. 2419, and is classified to section 629h of this title.

ABANDONED INFANTS ASSISTANCE

Pub. L. 100-505, Oct. 18, 1988, 102 Stat. 2533, as amended by Pub. L. 102-236, §§2-8, Dec. 12, 1991, 105 Stat. 1812-1816; Pub. L. 104-235, title II, §§221, 222, Oct. 3, 1996, 110 Stat. 3091, 3092; Pub. L. 108-36, title III, §§301-305, June 25, 2003, 117 Stat. 822-824, known as the Abandoned Infants Assistance Act of 1988, and formerly set out as a note under this section, provided temporary authority for the Secretary of Health and Human Services to make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to prevent the abandonment of infants and young children and required the Secretary to provide for evaluations of those projects. As amended by Pub. L. 102-236, §8, the program became permanent, and Pub. L. 100-505, except title II, was transferred to subchapter IV-A (§5117aa et seq.) of chapter 67 of this title, prior to repeal by Pub. L. 115-271, title VII, §7065(b), Oct. 24, 2018, 132 Stat. 4028. Title II of Pub. L. 100-505 was repealed by Pub. L. 111-320, title IV, §401(b), Dec. 20, 2010, 124 Stat. 3513.

STUDY OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS; REPORT TO CONGRESS NOT LATER THAN OCTOBER 1, 1983

Pub. L. 96-272, title I, §101(b), June 17, 1980, 94 Stat. 513, directed the Secretary of Health, Education, and Welfare to conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (42 U.S.C. 670 et seq.) 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.

Executive Documents

EX. ORD. NO. 13930. STRENGTHENING THE CHILD WELFARE SYSTEM FOR AMERICA'S CHILDREN

Ex. Ord. No. 13930, June 24, 2020, 85 F.R. 38741, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* Every child deserves a family. Our States and communities have both a legal obligation, and the privilege, to care for our Nation's most vulnerable children.

The best foster care system is one that is not needed in the first place. My Administration has been focused on prevention strategies that keep children safe while strengthening families so that children do not enter foster care unnecessarily. Last year, and for only the second time since 2011, the number of children in the foster care system declined, and for the third year in a

row, the number of children entering foster care has declined.

But challenges remain. Too many young people who are in our foster care system wait years before finding the permanency of family. More than 400,000 children are currently in foster care. Of those, more than 124,000 children are waiting for adoption, with nearly 6 out of 10 (58.4 percent) having already become legally eligible for adoption.

More than 50 percent of the children waiting for adoption have been in foster care—without the security and constancy of a permanent family—for 2 years or more. The need for stability and timely permanency is particularly acute for children 9 years and older, children in sibling groups, and those with intellectual or physical disabilities.

Even worse, too many young men and women age out of foster care having never found a permanent, stable family. In recent years, approximately 20,000 young people have aged out of foster care each year in the United States. Research has shown that young people who age out of the foster care system are likely to experience significant, and significantly increased, life challenges—40 percent of such young people studied experienced homelessness; 50 percent were unemployed at age 24; 25 percent experienced post-traumatic stress disorder; and 71 percent became pregnant by age 21. These are unacceptable outcomes.

Several factors have contributed to the number of children who wait in foster care for extended periods. First, State and local child welfare agencies often do not have robust partnerships with private community organizations, including faith-based organizations. Second, those who step up to be resource families for children in foster care—including kin, guardians, foster parents, and adoptive parents—may lack adequate support. Third, too often the processes and systems meant to help children and families in crisis have instead created bureaucratic barriers that make it more difficult for these children and families to get the help they need.

It is the goal of the United States to promote a child welfare system that reduces the need to place children into foster care; achieves safe permanency for those children who must come into foster care, and does so more quickly and more effectively; places appropriate focus on children who are waiting for adoption, especially those who are 9 years and older, are in sibling groups, or have disabilities; and decreases the proportion of young adults who age out of the foster care system.

Children from all backgrounds have the potential to become successful and thriving adults. Yet without a committed, loving family that can provide encouragement, stability, and a lifelong connection, some children may never receive the support needed to realize that potential.

This order will help to empower families who answer the call to open their hearts and homes to children who need them. My Administration is committed to helping give as many children as possible the stability and support that family provides by dramatically improving our child welfare system.

SEC. 2. Encouraging Robust Partnerships Between State Agencies and Public, Private, Faith-based, and Community Organizations. (a) In order to facilitate close partnerships between State agencies and nongovernmental organizations, including public, private, faith-based, and community groups, the Secretary of Health and Human Services (the “Secretary”) shall provide increased public access to accurate, up-to-date information relevant to strengthening the child welfare system, including by:

(i) Publishing data to aid in the recruitment of community support. Within 1 year of the date of this order [June 24, 2020] and each year thereafter, the Secretary shall submit to the President, through the Assistant to the President for Domestic Policy, a report that provides information about typical patterns of entry, recent available counts of children in foster care, and

counts of children waiting for adoption. To the extent appropriate and consistent with applicable law, including all privacy laws, this data will be disaggregated by county or other sub-State level, child age, placement type, and prior time in care.

(ii) Collecting needed data to preserve sibling connections.

(A) Within 2 years of the date of this order, the Secretary shall collect information from appropriate State and local agencies on the number of children in foster care who have siblings in foster care and who are not currently placed with their siblings.

(B) Within 3 years of the date of this order, to support the goal of keeping siblings together (42 U.S.C. 671(a)(31)(A)), the Secretary shall develop data analysis methods to report on the experience of children entering care in sibling groups, and the extent to which they are placed together. The Secretary’s analysis shall also assess the extent to which siblings who are legally eligible for adoption achieve permanency together.

(iii) Expanding the number of homes for children and youth.

(A) Within 2 years of the date of this order, the Secretary shall develop a more rigorous and systematic approach to collecting State administrative data as part of the Child and Family Services Review required by section 1123A of the Social Security Act (the “Act”) (42 U.S.C. 1320a–2a). Data collected shall include:

(1) demographic information for children in foster care and waiting for adoption;

(2) the number of currently available foster families and their demographic information;

(3) the average foster parent retention rate and average length of time foster parents remain certified;

(4) a target number of foster homes needed to meet the needs of children in foster care; and

(5) the average length of time it takes to complete foster and adoptive home certification.

(B) The Secretary shall ensure, to the extent consistent with applicable law, that States report to the Secretary regarding strategies for coordinating with nongovernmental organizations, including faith-based and community organizations, to recruit and support foster and adoptive families.

(b) Within 1 year of the date of this order, the Secretary shall issue guidance to Federal, State, and local agencies on partnering with nongovernmental organizations. This guidance shall include best practices for information sharing, providing needed services to families to support prevention of children entering foster care, family preservation, foster and adoptive home recruitment and retention, respite care, post-placement family support, and support for older youth. This guidance shall also make clear that faith-based organizations are eligible for partnerships under title IV–E [probably means part E of title IV] of the Act (42 U.S.C. 670 *et seq.*), on an equal basis, consistent with the First Amendment to the Constitution.

SEC. 3. Improving Access to Adequate Resources for Caregivers and Youth. While many public, private, faith-based, and community resources and other sources of support exist, many American caregivers still lack connection with and access to adequate resources. Within 1 year of the date of this order, the Secretary shall equip caregivers and those in care to meet their unique challenges, by:

(a) Expanding educational options. To the extent practicable, the Secretary shall use all existing technical assistance resources to promote dissemination and State implementation of the National Training and Development Curriculum, including, when appropriate, in non-classroom environments.

(b) Increasing the availability of trauma-informed training. The Secretary shall provide an enhanced, web-based, learning-management platform to house the information generated by the National Adoption Competency Mental Health Training Initiative. Access to

this web-based training material will be provided free of charge for all child welfare and mental health practitioners.

(c) Supporting guardianship. The Secretary shall provide information to States regarding the importance and availability of funds to increase guardianship through the title IV-E Guardianship Assistance Program (42 U.S.C. 673), which provides Federal reimbursement for payments to guardians and for associated administrative costs. This information shall include which States have already opted into the program.

(d) Enhancing support for kinship care and youth exiting foster care. The Secretary shall establish a plan to address barriers to accessing existing Federal assistance and benefits for eligible individuals.

SEC. 4. Ensuring Equality of Treatment and Access for all Families. The Howard M. Metzenbaum Multiethnic Placement Act of 1994 (the “Multiethnic Placement Act”) (Public Law 103-382[, title V, part E, subpart 1 (§551 et seq.); see Tables for classification]), as amended, prohibits agencies from denying to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin (42 U.S.C. 671(a)(18)(A)); prohibits agencies from delaying or denying the placement of a child for adoption or into foster care on the basis of race, color, or national origin (*id.* 671(a)(18)(B)); and requires agencies to diligently recruit a diverse base of foster and adoptive parents to better reflect the racial and ethnic makeup of children in out-of-home care (*id.* 662(b)(7)). To further the goals of the Multiethnic Placement Act, the Secretary shall:

(a) within 6 months of the date of this order, initiate a study regarding the implementation of these requirements nationwide;

(b) within 1 year of the date of this order, update guidance, as necessary, regarding implementation of the Multiethnic Placement Act; and

(c) within 1 year of the date of this order, publish guidance regarding the rights of parents, prospective parents, and children with disabilities (including intellectual, developmental, or physical disabilities).

SEC. 5. Improving Processes to Prevent Unnecessary Removal and Secure Permanency for Children. (a) Federal Review of Reasonable Effort Determinations and Timeliness Requirements.

(i) Within 2 years of the date of this order, the Secretary shall require that both the title IV-E reviews conducted pursuant to 45 CFR 1356.71 and the Child and Family Services Reviews conducted pursuant to 45 CFR 1355.31-1355.36 specifically and adequately assess the following requirements:

(A) reasonable efforts to prevent removal;

(B) filing a petition for Termination of Parental Rights within established statutory timelines and court processing of such petition, unless statutory exemptions apply;

(C) reasonable efforts to finalize permanency plans; and

(D) completion of relevant required family search and notifications and how such efforts are reviewed by courts.

(ii) In cases in which it is determined that statutorily required timelines and efforts have not been satisfied, the Secretary shall make use of existing authority in making eligibility determinations and disallowances consistent with section 1123A(b)(3)(4) of the Act (42 U.S.C. 1320a-2a(b)(3)(4)) [probably means 42 U.S.C. 1320a-2a(b)(3) and (4)].

(iii) Within 2 years of the date of this order, the Secretary shall develop metrics to track permanency outcomes in each State and measure State performance over time.

(iv) Within 6 months of the date of this order, the Secretary shall provide guidance to States regarding flexibility in the use of Federal funds to support and encourage high-quality legal representation for parents and children, including pre-petition representation, in their efforts to prevent the removal of children from their families, safely reunify children and parents, finalize permanency, and ensure that their voices are

heard and their rights are protected. The Secretary shall also ensure collection of data regarding State use of Federal funds for this purpose.

(b) Risk and Safety Assessments.

(i) Within 18 months of the date of this order, the Secretary shall collect States’ individual standards for conducting risk and safety assessments required under section 106(b)(2)(B)(iv) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(B)(iv)) [probably means 42 U.S.C. 5106a(b)(2)(B)(iv)].

(ii) Within 2 years of the date of this order, the Secretary shall outline reasonable best practice standards for risk and safety assessments, including how to address domestic violence and substance abuse.

SEC. 6. Indian Child Welfare Act. Nothing in this order shall alter the implementation of the Indian Child Welfare Act [of 1978; 25 U.S.C. 1901 et seq.] or replace the tribal consultation process.

SEC. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 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, adoption assistance in accordance with section 673 of this title, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;

(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 establish-

¹ See References in Text note below.

ment 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, the program established by subchapter II, or the supplemental security income program established by subchapter XVI, (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 or this part under circumstances which indicate that the child's health or welfare is threatened thereby;

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

(C) not later than—

(i) 1 year after September 29, 2014, demonstrate to the Secretary that the State agency has developed, in consultation with State and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth, policies and procedures (including relevant training for caseworkers) for identifying, documenting in agency records, and determining appropriate services with respect to—

(I) any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk of being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under section 675(8) of this title, and youth who are not in foster care but are receiving services under section 677 of this title); and

(II) at the option of the State, any individual who has not attained 26 years of age, without regard to whether the individual is or was in foster care under the responsibility of the State; and

(ii) 2 years after September 29, 2014, demonstrate to the Secretary that the State agency is implementing the policies and procedures referred to in clause (i).

(10) provides—

(A) for the establishment or designation of a State authority or authorities that 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 the institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which shall permit use of the reasonable and prudent parenting standard;

(B) that the standards established pursuant to subparagraph (A) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B and shall require, as a condition of each contract entered into by a child care institution to provide foster care, the presence on-site of at least 1 official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as prospective foster parents are provided the training pursuant to paragraph (24);

(C) that the standards established pursuant to subparagraph (A) shall include policies related to the liability of foster parents and private entities under contract by the State involving the application of the reasonable and prudent parent standard, to ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard; and

(D) that a waiver of any standards established pursuant to subparagraph (A) 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 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 and in accordance with the requirements of section 675a 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 de-

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

scribed in sections 675(5) and 675a 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 and plan approved under part D, 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;

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) 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;

(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;

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) 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; and

(D) provides procedures for any child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, to conduct criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28), and checks described in subparagraph (B) of this paragraph, on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, unless the State reports to the Secretary the alternative criminal records checks and child abuse registry checks the State conducts on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, and why the checks specified in this subparagraph are not appropriate for the State;

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under subchapter XIX) 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;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under subchapter XIX, 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) includes a certification that, before a child in foster care under the responsibility of 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, that the preparation will be continued, as necessary, after the placement of the child, and that the preparation shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities;

(25) provides that the State shall have in effect procedures for the orderly and timely interstate placement of children, which, in the case of a State other than the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, or American Samoa, not later than October 1, 2027, shall include the use of an electronic interstate case-processing system; 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 re-

gard 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 the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, 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

(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;

(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;

(34) provides that, for each child or youth described in paragraph (9)(C)(i)(I), the State agency shall—

(A) not later than 2 years after September 29, 2014, report immediately, and in no case later than 24 hours after receiving information on children or youth who have been identified as being a sex trafficking victim, to the law enforcement authorities; and

(B) not later than 3 years after September 29, 2014, and annually thereafter, report to the Secretary the total number of children and youth who are sex trafficking victims;

(35) provides that—

(A) not later than 1 year after September 29, 2014, the State shall develop and implement specific protocols for—

(i) expeditiously locating any child missing from foster care;

(ii) determining the primary factors that contributed to the child’s running away or otherwise being absent from care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements;

(iii) determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in section 675(9)(A) of this title); and

(iv) reporting such related information as required by the Secretary; and

(B) not later than 2 years after September 29, 2014, for each child and youth described in paragraph (9)(C)(i)(I) of this subsection, the State agency shall report immediately, and in no case later than 24 hours after receiving, information on missing or abducted children or youth to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, and to the National Center for Missing and Exploited Children;

(36) provides that, not later than April 1, 2019, the State shall submit to the Secretary information addressing—

(A) whether the State licensing standards are in accord with model standards identified by the Secretary, and if not, the reason for the specific deviation and a description as to why having a standard that is reasonably in accord with the corresponding national model standards is not appropriate for the State;

(B) whether the State has elected to waive standards established in 671(a)(10)(A)³ of this title for relative foster family homes (pursuant to waiver authority provided by 671(a)(10)(D)³ of this title), a description of which standards the State most commonly waives, and if the State has not elected to waive the standards, the reason for not waiving these standards;

(C) if the State has elected to waive standards specified in subparagraph (B), how caseworkers are trained to use the waiver authority and whether the State has developed a process or provided tools to assist caseworkers in waiving nonsafety standards per the authority provided in 671(a)(10)(D)³ of this title to quickly place children with relatives; and

(D) a description of the steps the State is taking to improve caseworker training or the process, if any; and

(37) includes a certification that, in response to the limitation imposed under section 672(k) of this title with respect to foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State's juvenile justice system.

(b) Approval of plan by Secretary

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

³So in original. Probably should be preceded by "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.

(d) Annual reports by the Secretary on number of children and youth reported by States to be sex trafficking victims

Not later than 4 years after September 29, 2014, and annually thereafter, the Secretary shall report to the Congress and make available to the public on the Internet website of the Department of Health and Human Services the number of children and youth reported in accordance with subsection (a)(34)(B) of this section to be sex trafficking victims (as defined in section 675(9)(A) of this title).

(e) Prevention and family services and programs

(1) In general

Subject to the succeeding provisions of this subsection, the Secretary may make a payment to a State for providing the following services or programs for a child described in paragraph (2) and the parents or kin caregivers of the child when the need of the child, such a parent, or such a caregiver for the services or programs are directly related to the safety, permanence, or well-being of the child or to preventing the child from entering foster care:

(A) Mental health and substance abuse prevention and treatment services

Mental health and substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child.

(B) In-home parent skill-based programs

In-home parent skill-based programs for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child and that include parenting skills training, parent education, and individual and family counseling.

(2) Child described

For purposes of paragraph (1), a child described in this paragraph is the following:

(A) A child who is a candidate for foster care (as defined in section 675(13) of this title) but can remain safely at home or in a kinship placement with receipt of services or programs specified in paragraph (1).

(B) A child in foster care who is a pregnant or parenting foster youth.

(3) Date described

For purposes of paragraph (1), the dates described in this paragraph are the following:

(A) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a child who is a candidate for foster care (as defined in section 675(13) of this title).

(B) The date on which a child is identified in a prevention plan maintained under paragraph (4) as a pregnant or parenting foster youth in need of services or programs specified in paragraph (1).

(4) Requirements related to providing services and programs

Services and programs specified in paragraph (1) may be provided under this subsection only if specified in advance in the child's prevention plan described in subparagraph (A) and the requirements in subparagraphs (B) through (E) are met:

(A) Prevention plan

The State maintains a written prevention plan for the child that meets the following requirements (as applicable):

(i) Candidates

In the case of a child who is a candidate for foster care described in paragraph (2)(A), the prevention plan shall—

(I) identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;

(II) list the services or programs to be provided to or on behalf of the child to ensure the success of that prevention strategy; and

(III) comply with such other requirements as the Secretary shall establish.

(ii) Pregnant or parenting foster youth

In the case of a child who is a pregnant or parenting foster youth described in paragraph (2)(B), the prevention plan shall—

(I) be included in the child's case plan required under section 675(1) of this title;

(II) list the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent;

(III) describe the foster care prevention strategy for any child born to the youth; and

(IV) comply with such other requirements as the Secretary shall establish.

(B) Trauma-informed

The services or programs to be provided to or on behalf of a child are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.

(C) Only services and programs provided in accordance with promising, supported, or well-supported practices permitted

(i) In general

Only State expenditures for services or programs specified in subparagraph (A) or

(B) of paragraph (1) that are provided in accordance with practices that meet the requirements specified in clause (ii) of this subparagraph and that meet the requirements specified in clause (iii), (iv), or (v), respectively, for being a promising, supported, or well-supported practice, shall be eligible for a Federal matching payment under section 674(a)(6)(A) of this title.

(ii) General practice requirements

The general practice requirements specified in this clause are the following:

(I) The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.

(II) There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.

(III) If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.

(IV) Outcome measures are reliable and valid, and are administered consistently and accurately across all those receiving the practice.

(V) There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent.

(iii) Promising practice

A practice shall be considered to be a "promising practice" if the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that—

(I) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and

(II) utilized some form of control (such as an untreated group, a placebo group, or a wait list study).

(iv) Supported practice

A practice shall be considered to be a "supported practice" if—

(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that—

(aa) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

(bb) was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design); and

(cc) was carried out in a usual care or practice setting; and

(II) the study described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of the treatment.

(v) Well-supported practice

A practice shall be considered to be a “well-supported practice” if—

(I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least two studies that—

(aa) were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed;

(bb) were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design); and

(cc) were carried out in a usual care or practice setting; and

(II) at least one of the studies described in subclause (I) established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment.

(D) Guidance on practices criteria and pre-approved services and programs

(i) In general

Not later than October 1, 2018, the Secretary shall issue guidance to States regarding the practices criteria required for services or programs to satisfy the requirements of subparagraph (C). The guidance shall include a pre-approved list of services and programs that satisfy the requirements.

(ii) Updates

The Secretary shall issue updates to the guidance required by clause (i) as often as the Secretary determines necessary.

(E) Outcome assessment and reporting

The State shall collect and report to the Secretary the following information with respect to each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided during a 12-month period beginning on the date the child is determined by the State to be a child described in paragraph (2):

(i) The specific services or programs provided and the total expenditures for each of the services or programs.

(ii) The duration of the services or programs provided.

(iii) In the case of a child described in paragraph (2)(A), the child’s placement status at the beginning, and at the end, of the 1-year period, respectively, and whether the child entered foster care within 2 years after being determined a candidate for foster care.

(5) State plan component

(A) In general

A State electing to provide services or programs specified in paragraph (1) shall submit as part of the State plan required by subsection (a) a prevention services and programs plan component that meets the requirements of subparagraph (B).

(B) Prevention services and programs plan component

In order to meet the requirements of this subparagraph, a prevention services and programs plan component, with respect to each 5-year period for which the plan component is in operation in the State, shall include the following:

(i) How providing services and programs specified in paragraph (1) is expected to improve specific outcomes for children and families.

(ii) How the State will monitor and oversee the safety of children who receive services and programs specified in paragraph (1), including through periodic risk assessments throughout the period in which the services and programs are provided on behalf of a child and reexamination of the prevention plan maintained for the child under paragraph (4) for the provision of the services or programs if the State determines the risk of the child entering foster care remains high despite the provision of the services or programs.

(iii) With respect to the services and programs specified in subparagraphs (A) and (B) of paragraph (1), information on the specific promising, supported, or well-supported practices the State plans to use to provide the services or programs, including a description of—

(I) the services or programs and whether the practices used are promising, supported, or well-supported;

(II) how the State plans to implement the services or programs, including how implementation of the services or programs will be continuously monitored to ensure fidelity to the practice model and to determine outcomes achieved and how information learned from the monitoring will be used to refine and improve practices;

(III) how the State selected the services or programs;

(IV) the target population for the services or programs; and

(V) how each service or program provided will be evaluated through a well-designed and rigorous process, which may consist of an ongoing, cross-site evaluation approved by the Secretary.

(iv) A description of the consultation that the State agencies responsible for administering the State plans under this part and part B engage in with other State agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services, including community-based organizations, in order to foster a continuum of care for children described in paragraph (2) and their parents or kin caregivers.

(v) A description of how the State shall assess children and their parents or kin caregivers to determine eligibility for services or programs specified in paragraph (1).

(vi) A description of how the services or programs specified in paragraph (1) that are provided for or on behalf of a child and the parents or kin caregivers of the child will be coordinated with other child and family services provided to the child and the parents or kin caregivers of the child under the State plans in effect under subparts 1 and 2 of part B.

(vii) Descriptions of steps the State is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services, including—

(I) ensuring that staff is qualified to provide services or programs that are consistent with the promising, supported, or well-supported practice models selected; and

(II) developing appropriate prevention plans, and conducting the risk assessments required under clause (iii).

(viii) A description of how the State will provide training and support for caseworkers in assessing what children and their families need, connecting to the families served, knowing how to access and deliver the needed trauma-informed and evidence-based services, and overseeing and evaluating the continuing appropriateness of the services.

(ix) A description of how caseload size and type for prevention caseworkers will be determined, managed, and overseen.

(x) An assurance that the State will report to the Secretary such information and data as the Secretary may require with respect to the provision of services and programs specified in paragraph (1), including information and data necessary to determine the performance measures for the State under paragraph (6) and compliance with paragraph (7).

(C) Reimbursement for services under the prevention plan component

(i) Limitation

Except as provided in subclause (ii), a State may not receive a Federal payment under this part for a given promising, supported, or well-supported practice unless (in accordance with subparagraph

(B)(iii)(V)) the plan includes a well-designed and rigorous evaluation strategy for that practice.

(ii) Waiver of limitation

The Secretary may waive the requirement for a well-designed and rigorous evaluation of any well-supported practice if the Secretary deems the evidence of the effectiveness of the practice to be compelling and the State meets the continuous quality improvement requirements included in subparagraph (B)(iii)(II) with regard to the practice.

(6) Prevention services measures

(A) Establishment; annual updates

Beginning with fiscal year 2021, and annually thereafter, the Secretary shall establish the following prevention services measures based on information and data reported by States that elect to provide services and programs specified in paragraph (1):

(i) Percentage of candidates for foster care who do not enter foster care

The percentage of candidates for foster care for whom, or on whose behalf, the services or programs are provided who do not enter foster care, including those placed with a kin caregiver outside of foster care, during the 12-month period in which the services or programs are provided and through the end of the succeeding 12-month period.

(ii) Per-child spending

The total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skill-based programs, respectively, for, or on behalf of, each child described in paragraph (2).

(B) Data

The Secretary shall establish and annually update the prevention services measures—

(i) based on the median State values of the information reported under each clause of subparagraph (A) for the 3 then most recent years; and

(ii) taking into account State differences in the price levels of consumption goods and services using the most recent regional price parities published by the Bureau of Economic Analysis of the Department of Commerce or such other data as the Secretary determines appropriate.

(C) Publication of State prevention services measures

The Secretary shall annually make available to the public the prevention services measures of each State.

(7) Maintenance of effort for State foster care prevention expenditures

(A) In general

If a State elects to provide services and programs specified in paragraph (1) for a fiscal year, the State foster care prevention expenditures for the fiscal year shall not be less than the amount of the expenditures for

fiscal year 2014 (or, at the option of a State described in subparagraph (E), fiscal year 2015 or fiscal year 2016 (whichever the State elects)).

(B) State foster care prevention expenditures

The term “State foster care prevention expenditures” means the following:

(i) TANF; IV-B; SSBG

State expenditures for foster care prevention services and activities under the State program funded under part A (including from amounts made available by the Federal Government), under the State plan developed under part B (including any such amounts), or under the Social Services Block Grant Programs under division A of subchapter XX (including any such amounts).

(ii) Other State programs

State expenditures for foster care prevention services and activities under any State program that is not described in clause (i) (other than any State expenditures for foster care prevention services and activities under the State program under this part (including under a waiver of the program)).

(C) State expenditures

The term “State expenditures” means all State or local funds that are expended by the State or a local agency including State or local funds that are matched or reimbursed by the Federal Government and State or local funds that are not matched or reimbursed by the Federal Government.

(D) Determination of prevention services and activities

The Secretary shall require each State that elects to provide services and programs specified in paragraph (1) to report the expenditures specified in subparagraph (B) for fiscal year 2014 and for such fiscal years thereafter as are necessary to determine whether the State is complying with the maintenance of effort requirement in subparagraph (A). The Secretary shall specify the specific services and activities under each program referred to in subparagraph (B) that are “prevention services and activities” for purposes of the reports.

(E) State described

For purposes of subparagraph (A), a State is described in this subparagraph if the population of children in the State in 2014 was less than 200,000 (as determined by the United States Census Bureau).

(8) Prohibition against use of state foster care prevention expenditures and Federal IV-E prevention funds for matching or expenditure requirement

A State that elects to provide services and programs specified in paragraph (1) shall not use any State foster care prevention expenditures for a fiscal year for the State share of expenditures under section 674(a)(6) of this title for a fiscal year.

(9) Administrative costs

Expenditures described in section 674(a)(6)(B) of this title—

(A) shall not be eligible for payment under subparagraph (A), (B), or (E) of section 674(a)(3) of this title; and

(B) shall be eligible for payment under section 674(a)(6)(B) of this title without regard to whether the expenditures are incurred on behalf of a child who is, or is potentially, eligible for foster care maintenance payments under this part.

(10) Application

(A) In general

The provision of services or programs under this subsection to or on behalf of a child described in paragraph (2) shall not be considered to be receipt of aid or assistance under the State plan under this part for purposes of eligibility for any other program established under this chapter, nor shall the provision of such services or programs be construed to permit the State to reduce medical or other assistance available to a recipient of such services or programs.

(B) Candidates in kinship care

A child described in paragraph (2) for whom such services or programs under this subsection are provided for more than 6 months while in the home of a kin caregiver, and who would satisfy the AFDC eligibility requirement of section 672(a)(3)(A)(ii)(II) of this title but for residing in the home of the caregiver for more than 6 months, is deemed to satisfy that requirement for purposes of determining whether the child is eligible for foster care maintenance payments under section 672 of this title.

(C) Payer of last resort

In carrying out its responsibilities to ensure access to services or programs under this subsection, the State agency shall not be considered to be a legally liable third party for purposes of satisfying a financial commitment for the cost of providing such services or programs with respect to any individual for whom such cost would have been paid for from another public or private source but for the enactment of this subsection (except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by a child or family in a timely fashion, funds provided under section 674(a)(6) of this title may be used to pay the provider of services or programs pending reimbursement from the public or private source that has ultimate responsibility for the payment).

(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; Pub. L. 113-183, title I, §§101(a), 102, 104, 111(a)(2), (b), 112(b)(2)(A)(ii), title II, §209(a)(1), Sept. 29, 2014, 128 Stat. 1920-1922, 1924, 1927, 1941; Pub. L. 115-123, div. E, title VII, §§50711(a), 50722(a), 50731(b), 50741(d)(1), 50745, Feb. 9, 2018, 132 Stat. 232, 246, 251, 256, 261; Pub. L. 115-165, title I, §103(a)(2), Apr. 13, 2018, 132 Stat. 1262; Pub. L. 115-271, title VIII, §8082(b), Oct. 24, 2018, 132 Stat. 4102.)

Editorial Notes

REFERENCES IN TEXT

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.

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

2018—Subsec. (a)(1). Pub. L. 115-123, §50711(a)(1), substituted “, adoption assistance in accordance with section 673 of this title, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;” for “and for adoption assistance in accordance with section 673 of this title;”.

Subsec. (a)(8)(A). Pub. L. 115-165 inserted “the program established by subchapter II,” after “XX.”.

Subsec. (a)(20)(A), (C). Pub. L. 115-123, §50745(b), substituted “section 534(f)(3)(A)” for “section 534(e)(3)(A)”.

Subsec. (a)(20)(D). Pub. L. 115-123, §50745(a), added subpar. (D).

Subsec. (a)(25). Pub. L. 115-123, §50722(a), substituted “provides” for “provide” and inserted “, which, in the case of a State other than the Commonwealth of Puer-

to Rico, the United States Virgin Islands, Guam, or American Samoa, not later than October 1, 2027, shall include the use of an electronic interstate case-processing system” after “children”.

Subsec. (a)(36). Pub. L. 115-123, §50731(b), added par. (36).

Subsec. (a)(37). Pub. L. 115-123, §50741(d)(1), added par. (37).

Subsec. (e). Pub. L. 115-123, §50711(a)(2), added subsec. (e).

Subsec. (e)(10)(A). Pub. L. 115-271, §8082(b)(1), inserted “, nor shall the provision of such services or programs be construed to permit the State to reduce medical or other assistance available to a recipient of such services or programs” after “under this chapter”.

Subsec. (e)(10)(C). Pub. L. 115-271, §8082(b)(2), added subpar. (C).

2014—Subsec. (a)(9)(C). Pub. L. 113-183, §101(a), added subpar. (C).

Subsec. (a)(10). Pub. L. 113-183, §111(b), amended par. (10) generally. Prior to amendment, par. (10) read as follows: “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;”.

Subsec. (a)(16). Pub. L. 113-183, §112(b)(2)(A)(ii), inserted “and in accordance with the requirements of section 675a of this title” after “section 675(1) of this title” and substituted “sections 675(5) and 675a of this title” for “section 675(5)(B) of this title”.

Subsec. (a)(24). Pub. L. 113-183, §111(a)(2), substituted “includes” for “include” and “that the preparation will” for “and that such preparation will” and inserted before semicolon at end “, and that the preparation shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities”.

Subsec. (a)(29). Pub. L. 113-183, §209(a)(1), substituted “the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling,” for “all adult grandparents”.

Subsec. (a)(34). Pub. L. 113-183, §102(a), added par. (34).

Subsec. (a)(35). Pub. L. 113-183, §104, added par. (35).

Subsec. (d). Pub. L. 113-183, §102(b), added subsec. (d).

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 and plan approved under part D” for “plans approved under parts A and D”.

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-271, title VIII, §8082(c), Oct. 24, 2018, 132 Stat. 4102, provided that: “The amendments made by subsection (b) [amending this section] shall take effect as if included in section 50711 of division E of Public Law 115-123.”

Amendment by Pub. L. 115-165 applicable with respect to months beginning on or after 1 year after Apr. 13, 2018, with exception if State legislation required, see section 103(a)(4) of Pub. L. 115-165, set out as a note under section 405 of this title.

Amendment by sections 50711(a) and 50722(a) of Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50731(b) of Pub. L. 115-123 effective Feb. 9, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50741(d)(1) of Pub. L. 115-123 effective Oct. 1, 2019, with State option to delay effective date for not more than 2 years and subject to State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50745 of Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rule and State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-183, title I, §111(d), Sept. 29, 2014, 128 Stat. 1925, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 675 and 677 of this title] shall take effect on the date that is 1 year after the date of the enactment of this Act [Sept. 29, 2014].

“(2) 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 developed pursuant to part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act [Sept. 29, 2014]. 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 section 112 of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 112(c) of Pub. L. 113-183, set out as a note under section 622 of this title.

Pub. L. 113-183, title II, §210, Sept. 29, 2014, 128 Stat. 1941, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle [subtitle A (§§201-210) of title II of Pub. L. 113-183, amending this section and sections 673, 673b, 675, and 679 of this title] shall take effect as if enacted on October 1, 2013.

“(b) RESTRUCTURING AND RENAMING OF PROGRAM.—

“(1) IN GENERAL.—The amendments made by sections 202 and 203 [amending section 673b of this title] shall take effect on October 1, 2014, subject to paragraph (2).

“(2) TRANSITION RULE.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the total amount payable to a State under section 473A of the Social Security Act [42 U.S.C. 673b] for fiscal year 2014 shall be an amount equal to ½ of the sum of—

“(i) the total amount that would be payable to the State under such section for fiscal year 2014 if the amendments made by section 202 of this Act had not taken effect; and

“(ii) the total amount that would be payable to the State under such section for fiscal year 2014 in the absence of this paragraph.

“(B) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount otherwise payable under subparagraph (A) for fiscal year 2014 exceeds the amount appropriated pursuant to section 473A(h) of the Social Security Act (42 U.S.C. 673b(h)) for that fiscal year, the amount payable to each State under subparagraph (A) for fiscal year 2014 shall be—

“(i) the amount that would otherwise be payable to the State under subparagraph (A) for fiscal year 2014; multiplied by

“(ii) the percentage represented by the amount so appropriated for fiscal year 2014, divided by the total amount otherwise payable under subparagraph (A) to all States for that fiscal year.

“(c) USE OF INCENTIVE PAYMENTS; ELIGIBILITY FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS WITH A SUCCESSOR GUARDIAN; DATA COLLECTION.—The amendments made by sections 204, 207, and 208 [amending sections 673, 673b, and 679 of this title] shall take effect on the date of enactment of this Act [Sept. 29, 2014].

“(d) CALCULATION AND USE OF SAVINGS RESULTING FROM THE PHASE-OUT OF ELIGIBILITY REQUIREMENTS FOR ADOPTION ASSISTANCE.—The amendment made by section 206 [amending section 673 of this title] shall take effect on October 1, 2014.

“(e) NOTIFICATION OF PARENTS OF SIBLINGS.—

“(1) IN GENERAL.—The amendments made by section 209 [amending this section and section 675 of this title] shall take effect on the date of enactment of this Act [Sept. 29, 2014], subject to paragraph (2).

“(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] 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 section 209, 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 enactment of this Act [Sept. 29, 2014]. 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 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 [42 U.S.C. 620 et seq., 670 et seq.] 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 [42 U.S.C. 620 et seq., 670 et seq.] 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 [42 U.S.C. 670 et seq.] 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 [42 U.S.C. 671] 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

Pub. L. 103-432, title II, § 203(c)(2), Oct. 31, 1994, 108 Stat. 4456, 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

Pub. L. 101-508, title V, § 5054(c), Nov. 5, 1990, 104 Stat. 1388-229, 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

Pub. L. 100-485, title II, § 204, Oct. 13, 1988, 102 Stat. 2381, 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, sec-

tions 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 [42 U.S.C. 602] 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 [42 U.S.C. 603(k)(2)] (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 [former 42 U.S.C. 686] (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 [42 U.S.C. 670 et seq.] 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 [42 U.S.C. 1396 et seq.].

“(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)].”

Pub. L. 100-485, title II, §203(a), Oct. 13, 1988, 102 Stat. 2378, 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 described in section 482(a)(2) of the Social Security Act [former 42 U.S.C. 682(a)(2)].”

CONSTRUCTION OF 2014 AMENDMENT

Pub. L. 113-183, title II, §209(b), Sept. 29, 2014, 128 Stat. 1941, provided that: “Nothing in this section [amending this section and section 675 of this title] shall be construed as subordinating the rights of foster or adoptive parents of a child to the rights of the parents of a sibling of that child.”

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 [42 U.S.C. 670 et seq.]; 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)].”

PREVENTING AGING OUT OF FOSTER CARE DURING THE PANDEMIC

Pub. L. 116-260, div. X, §4, Dec. 27, 2020, 134 Stat. 2411, provided that:

“(a) ADDRESSING FOSTER CARE AGE RESTRICTIONS DURING THE PANDEMIC.—A State operating a program under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] may not require a child who is in foster care under the responsibility of the State to leave foster care solely by reason of the child’s age. A child may not be found ineligible for foster care maintenance payments under section 472 of such Act [42 U.S.C. 672] solely due to the age of the child or the failure of the child to meet a condition of section 475(8)(B)(iv) of such Act [42 U.S.C. 675(8)(B)(iv)] before October 1, 2021.

“(b) RE-ENTRY TO FOSTER CARE FOR YOUTH WHO AGE OUT DURING THE PANDEMIC.—A State operating a program under the State plan approved under part E of title IV of the Social Security Act (and without regard to whether the State has exercised the option provided by section 475(8)(B) of such Act to extend assistance under such part to older children) shall—

“(1) permit any youth who left foster care due to age during the COVID-19 public health emergency to voluntarily re-enter foster care;

“(2) provide to each such youth who was formally discharged from foster care during the COVID-19 public health emergency, a notice designed to make the youth aware of the option to return to foster care;

“(3) facilitate the voluntary return of any such youth to foster care; and

“(4) conduct a public awareness campaign about the option to voluntarily re-enter foster care for youth who have not attained 22 years of age, who aged out of foster care in fiscal year 2020 or fiscal year 2021, and who are otherwise eligible to return to foster care.

“(c) PROTECTIONS FOR YOUTH IN FOSTER CARE.—A State operating a program under the State plan approved under part E of title IV of the Social Security Act shall—

“(1) continue to ensure that the safety, permanence, and well-being needs of older foster youth, including youth who remain in foster care and youth who age out of foster care during that period but who re-enter foster care pursuant to this section, are met; and

“(2) work with any youth who remains in foster care after attaining 18 years of age (or such greater age as the State may have elected under section 475(8)(B)(iii) of such Act) to develop, or review and revise, a transition plan consistent with the plan referred to in section 475(5)(H) of such Act [42 U.S.C. 675(5)(H)], and assist the youth with identifying adults who can offer meaningful, permanent connections.

“(d) AUTHORITY TO USE ADDITIONAL FUNDING FOR CERTAIN COSTS INCURRED TO PREVENT AGING OUT OF, FACILITATING RE-ENTRY TO, AND PROTECTING YOUTH IN CARE DURING THE PANDEMIC.—

“(1) IN GENERAL.—Subject to paragraph (2) of this subsection, a State to which additional funds are made available as a result of section 3(a) [section 3(a) of div. X of Pub. L. 116-260, set out in a note under section 677 of this title] may use the funds to meet any costs incurred in complying with subsections (a), (b), and (c) of this section.

“(2) RESTRICTIONS.—

“(A) The costs referred to in paragraph (1) must be incurred after the date of the enactment of this section [Dec. 27, 2020] and before October 1, 2021.

“(B) The costs of complying with subsection (a) or (c) of this section must not be incurred on behalf of children eligible for foster care maintenance payments under section 472 of the Social Security Act, including youth who have attained 18 years of age who are eligible for the payments by reason of the temporary waiver of the age requirement or the conditions of section 475(8)(B)(iv) of such Act.

“(C) A State shall make reasonable efforts to ensure that eligibility for foster care maintenance payments under section 472 of the Social Security Act is determined when a youth remains in, or re-enters, foster care as a result of the State complying with subsections (a) and (c) of this section.

“(D) A child who re-enters care during the COVID-19 public health emergency period may not be found ineligible for foster care maintenance payments under section 472 of the Social Security Act solely due to age or the requirements of section 475(8)(B)(iv) of such Act before October 1, 2021.

“(e) TERMINATION OF CERTAIN PROVISIONS.—The preceding provisions of this section shall have no force or effect after September 30, 2021.”

[For definitions of “COVID-19 public health emergency” and “COVID-19 public health emergency period” as used in section 4 of div. X of Pub. L. 116-260, set out above, see section 2 of div. X of Pub. L. 116-260, set out as a note under section 629h of this title.]

IDENTIFICATION OF REPUTABLE MODEL LICENSING STANDARDS

Pub. L. 115-123, div. E, title VII, §50731(a), Feb. 9, 2018, 132 Stat. 251, provided that: “Not later than October 1, 2018, the Secretary of Health and Human Services shall

identify reputable model licensing standards with respect to the licensing of foster family homes (as defined in section 472(c)(1) of the Social Security Act [42 U.S.C. 672(c)(1)]).”

TECHNICAL ASSISTANCE

Pub. L. 113-183, title I, §111(a)(3), Sept. 29, 2014, 128 Stat. 1924, provided that: “The Secretary of Health and Human Services shall provide assistance to the States on best practices for devising strategies to assist foster parents in applying a reasonable and prudent parent standard in a manner that protects child safety, while also allowing children to experience normal and beneficial activities, including methods for appropriately considering the concerns of the biological parents of a child in decisions related to participation of the child in activities (with the understanding that those concerns should not necessarily determine the participation of the child in any activity).”

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

Pub. L. 105-89, title IV, §401, Nov. 19, 1997, 111 Stat. 2133, 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

Pub. L. 105-89, title IV, §402, Nov. 19, 1997, 111 Stat. 2134, 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 regulations 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

Pub. L. 105-89, title IV, §406, Nov. 19, 1997, 111 Stat. 2135, 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 title in accordance with section 679c of this title; and

(C) the child has been placed in a foster family home, with a parent residing in a licensed residential family-based treatment facility, but only to the extent permitted under subsection (j), or in a child-care institution, but only to the extent permitted under subsection (k).

(3) AFDC eligibility requirement

(A) In general

A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 602 of this title (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court pro-

ceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) Resources determination

For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 602(a)(7)(B) of this title).

(4) Eligibility of certain alien children

Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.], if the child is an alien disqualified under section 1255a(h) or 1160(f) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Additional qualifications

Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section 675(4) of this title).

(c) Definitions

For purposes of this part:

(1) Foster family home

(A) In general

The term “foster family home” means the home of an individual or family—

(i) that is licensed or approved by the State in which it is situated as a foster family home that meets the standards established for the licensing or approval; and

(ii) in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State to be a foster parent—

(I) that the State deems capable of adhering to the reasonable and prudent parent standard;

(II) that provides 24-hour substitute care for children placed away from their parents or other caretakers; and

(III) that provides the care for not more than six children in foster care.

(B) State flexibility

The number of foster children that may be cared for in a home under subparagraph (A) may exceed the numerical limitation in subparagraph (A)(ii)(III), at the option of the State, for any of the following reasons:

(i) To allow a parenting youth in foster care to remain with the child of the parenting youth.

(ii) To allow siblings to remain together.

(iii) To allow a child with an established meaningful relationship with the family to remain with the family.

(iv) To allow a family with special training or skills to provide care to a child who has a severe disability.

(C) Rule of construction

Subparagraph (A) shall not be construed as prohibiting a foster parent from renting the home in which the parent cares for a foster child placed in the parent's care.

(2) Child-care institution

(A) In general

The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved by the agency of the State responsible for licensing or approval of institutions of this type as meeting the standards established for the licensing.

(B) Supervised settings

In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations.

(C) Exclusions

The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Children removed from their homes pursuant to voluntary placement agreements

Notwithstanding any other provision of this subchapter, Federal payments may be made under this part with respect to amounts ex-

pending by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 622(b)(8) of this title.

(e) Placements in best interest of child

No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) “Voluntary placement” and “voluntary placement agreement” defined

For the purposes of this part and part B of this subchapter, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) Revocation of voluntary placement agreement

In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child’s best interests.

(h) Aid for dependent children; assistance for minor children in needy families

(1) For purposes of subchapter XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this subchapter (as so in effect). For purposes of division

A¹ of subchapter XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this subchapter and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child’s minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) Administrative costs associated with otherwise eligible children not in licensed foster care settings

Expenditures by a State that would be considered administrative expenditures for purposes of section 674(a)(3) of this title if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

(A) reasonable efforts are being made in accordance with section 671(a)(15) of this title to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

(j) Children placed with a parent residing in a licensed residential family-based treatment facility for substance abuse

(1) In general

Notwithstanding the preceding provisions of this section, a child who is eligible for foster care maintenance payments under this section, or who would be eligible for the payments if the eligibility were determined with-

¹ See References in Text note below.

out regard to paragraphs (1)(B) and (3) of subsection (a), shall be eligible for the payments for a period of not more than 12 months during which the child is placed with a parent who is in a licensed residential family-based treatment facility for substance abuse, but only if—

(A) the recommendation for the placement is specified in the child's case plan before the placement;

(B) the treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; and

(C) the substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

(2) Application

With respect to children for whom foster care maintenance payments are made under paragraph (1), only the children who satisfy the requirements of paragraphs (1)(B) and (3) of subsection (a) shall be considered to be children with respect to whom foster care maintenance payments are made under this section for purposes of subsection (h) or section 673(b)(3)(B) of this title.

(k) Limitation on Federal financial participation

(1) In general

Beginning with the third week for which foster care maintenance payments are made under this section on behalf of a child placed in a child-care institution, no Federal payment shall be made to the State under section 674(a)(1) of this title for amounts expended for foster care maintenance payments on behalf of the child unless—

(A) the child is placed in a child-care institution that is a setting specified in paragraph (2) (or is placed in a licensed residential family-based treatment facility consistent with subsection (j)); and

(B) in the case of a child placed in a qualified residential treatment program (as defined in paragraph (4)), the requirements specified in paragraph (3) and section 675a(c) of this title are met.

(2) Specified settings for placement

The settings for placement specified in this paragraph are the following:

(A) A qualified residential treatment program (as defined in paragraph (4)).

(B) A setting specializing in providing prenatal, post-partum, or parenting supports for youth.

(C) In the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently.

(D) A setting providing high-quality residential care and supportive services to children and youth who have been found to be,

or are at risk of becoming, sex trafficking victims, in accordance with section 671(a)(9)(C) of this title.

(3) Assessment to determine appropriateness of placement in a qualified residential treatment program

(A) Deadline for assessment

In the case of a child who is placed in a qualified residential treatment program, if the assessment required under section 675a(c)(1) of this title is not completed within 30 days after the placement is made, no Federal payment shall be made to the State under section 674(a)(1) of this title for any amounts expended for foster care maintenance payments on behalf of the child during the placement.

(B) Deadline for transition out of placement

If the assessment required under section 675a(c)(1) of this title determines that the placement of a child in a qualified residential treatment program is not appropriate, a court disapproves such a placement under section 675a(c)(2) of this title, or a child who has been in an approved placement in a qualified residential treatment program is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home, Federal payments shall be made to the State under section 674(a)(1) of this title for amounts expended for foster care maintenance payments on behalf of the child while the child remains in the qualified residential treatment program only during the period necessary for the child to transition home or to such a placement. In no event shall a State receive Federal payments under section 674(a)(1) of this title for amounts expended for foster care maintenance payments on behalf of a child who remains placed in a qualified residential treatment program after the end of the 30-day period that begins on the date a determination is made that the placement is no longer the recommended or approved placement for the child.

(4) Qualified residential treatment program

For purposes of this part, the term "qualified residential treatment program" means a program that—

(A) has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under section 675a(c) of this title;

(B) subject to paragraphs (5) and (6), has registered or licensed nursing staff and other licensed clinical staff who—

(i) provide care within the scope of their practice as defined by State law;

(ii) are on-site according to the treatment model referred to in subparagraph (A); and

(iii) are available 24 hours a day and 7 days a week;

(C) to extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

(D) facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;

(E) documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

(F) provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and

(G) is licensed in accordance with section 671(a)(10) of this title and is accredited by any of the following independent, not-for-profit organizations:

- (i) The Commission on Accreditation of Rehabilitation Facilities (CARF).
- (ii) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
- (iii) The Council on Accreditation (COA).
- (iv) Any other independent, not-for-profit accrediting organization approved by the Secretary.

(5) Administrative costs

The prohibition in paragraph (1) on Federal payments under section 674(a)(1) of this title shall not be construed as prohibiting Federal payments for administrative expenditures incurred on behalf of a child placed in a child-care institution and for which payment is available under section 674(a)(3) of this title.

(6) Rule of construction

The requirements in paragraph (4)(B) shall not be construed as requiring a qualified residential treatment program to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship.

(Aug. 14, 1935, ch. 531, title IV, §472, as added and amended Pub. L. 96-272, title I, §§101(a)(1), 102(a)(1), (2), June 17, 1980, 94 Stat. 503, 513, 514; Pub. L. 99-603, title II, §201(b)(2)(A), title III, §§302(b)(2), 303(e)(2), Nov. 6, 1986, 100 Stat. 3403, 3422, 3431; Pub. L. 100-203, title IX, §§9133(b)(2), 9139(a), Dec. 22, 1987, 101 Stat. 1330-314, 1330-321; Pub. L. 103-432, title II, §202(d)(3), Oct. 31, 1994, 108 Stat. 4454; Pub. L. 104-193, title I, §108(d)(3), (4), title V, §501, Aug. 22, 1996, 110 Stat. 2166, 2277; Pub. L. 105-33, title V, §§5513(b)(1), (2), 5592(b), Aug. 5, 1997, 111 Stat. 620, 644; Pub. L. 105-89, title I, §101(c), Nov. 19, 1997, 111 Stat. 2117; Pub. L. 106-169, title I, §111, Dec. 14, 1999, 113 Stat. 1829; Pub. L. 109-113, §2, Nov. 22, 2005, 119 Stat. 2371; Pub. L. 109-171, title VII, §§7403(a), 7404(a), Feb. 8, 2006, 120 Stat. 151; Pub. L. 109-288, §6(f)(6), Sept. 28, 2006, 120 Stat. 1247; Pub. L. 110-351, title II, §201(b), title III, §301(a)(2), Oct. 7, 2008, 122 Stat. 3958, 3967; Pub. L. 111-148, title VI, §6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803; Pub. L. 115-123, div. E, title VII, §§50712(a), 50741(a)(1), (b), Feb. 9, 2018, 132 Stat. 244, 253, 255.)

Editorial Notes

REFERENCES IN TEXT

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(4), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

Division A of subchapter XX, referred to in subsec. (h)(1), 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.

AMENDMENTS

2018—Subsec. (a)(2)(C). Pub. L. 115-123, §50741(a)(1)(A), inserted “, but only to the extent permitted under subsection (k)” after “institution”.

Pub. L. 115-123, §50712(a)(1), substituted “, with a parent residing in a licensed residential family-based treatment facility, but only to the extent permitted under subsection (j), or in a” for “or”.

Subsec. (c). Pub. L. 115-123, §50741(b), amended subsec. (c) generally. Prior to amendment, text read as follows: “For the purposes of this part, (1) the term ‘foster family home’ means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term ‘child-care institution’ means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.”

Subsec. (j). Pub. L. 115-123, §50712(a)(2), added subsec. (j).

Subsec. (k). Pub. L. 115-123, §50741(a)(1)(B), added subsec. (k).

2010—Subsec. (h)(1). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Subsec. (a)(2)(B)(iii). Pub. L. 110-351, §301(a)(2), added cl. (iii).

Subsec. (c)(2). Pub. L. 110-351, §201(b), inserted “except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations,” before “but the term”.

2006—Subsec. (a). Pub. L. 109-171, §7404(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to qualifying children for foster care maintenance payments.

Subsec. (d). Pub. L. 109-288 substituted “622(b)(8)” for “622(b)(10)”.

Subsec. (i). Pub. L. 109-171, §7403(a), added subsec. (i).

2005—Subsec. (b). Pub. L. 109-113 struck out “non-profit” before “private” in pars. (1) and (2).

1999—Subsec. (a). Pub. L. 106-169 inserted at end “In determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered to be a child

whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of such section 602(a)(7)(B) of this title).

1997—Subsec. (a). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in introductory provisions.

Subsec. (a)(1). Pub. L. 105-89 inserted “for a child” before “have been made;”.

Subsec. (a)(4). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in subpars. (A) and (B).

Subsec. (d). Pub. L. 105-33, § 5592(b), substituted “section 622(b)(10)” for “section 622(b)(9)”.

Subsec. (h)(1). Pub. L. 105-33, § 5513(b)(2), substituted “July 16, 1996” for “June 1, 1995”.

1996—Subsec. (a). Pub. L. 104-193, § 108(d)(3)(A), in introductory provisions, substituted “would have met the requirements” for “would meet the requirements” and inserted “(as such sections were in effect on June 1, 1995)” after “section 607 of this title” and “(as so in effect)” after “section 606(a) of this title”.

Subsec. (a)(4)(A). Pub. L. 104-193, § 108(d)(3)(B)(i), substituted “would have received aid” for “received aid” and inserted “(as in effect on June 1, 1995)” after “section 602 of this title”.

Subsec. (a)(4)(B)(ii). Pub. L. 104-193, § 108(d)(3)(B)(ii), inserted “(as in effect on June 1, 1995)” after “section 606(a) of this title”.

Subsec. (c)(2). Pub. L. 104-193, § 501, struck out “non-profit” before “private child-care institution.”

Subsec. (h). Pub. L. 104-193, § 108(d)(4), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.”

1994—Subsec. (d). Pub. L. 103-432 substituted “section 622(b)(9) of this title” for “section 627(b) of this title”.

1987—Subsec. (a). Pub. L. 100-203, § 9139(a), substituted “section 673(a)(2)(B) of this title” for “section 673(a)(1)(B) of this title”.

Subsec. (h). Pub. L. 100-203, § 9133(b)(2), inserted sentence at end.

1986—Subsec. (a). Pub. L. 99-603, § 303(e)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1161(d)(7) of title 8.

Pub. L. 99-603, § 302(b)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1160(f) of title 8.

Pub. L. 99-603, § 201(b)(2)(A), inserted closing provisions: “In any case where the child is an alien disqualified under section 1255a(h) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 673(a)(1)(B) of this title), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.”

1980—Subsec. (a). Pub. L. 96-272, § 102(a)(1), inserted provisions relating to voluntary placement agreements entered into by a child’s parent or legal guardian.

Subsecs. (d) to (h). Pub. L. 96-272, § 102(a)(2), added subsecs. (d) to (g). Former subsec. (d) was redesignated (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 50712(a) of Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50741(a)(1), (b) of Pub. L. 115-123 effective Oct. 1, 2019, with State option to delay effective date for not more than 2 years and subject to State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-351, title II, § 201(d), Oct. 7, 2008, 122 Stat. 3959, provided that: “The amendments made by this section [amending this section and sections 673 and 675 of this title] shall take effect on October 1, 2010.”

Amendment by section 301(a)(2) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 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 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 section 5513(b)(1), (2) of Pub. L. 105-33 effective as if included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 108 became law, see section 5518(b) of Pub. L. 105-33, set out as a note under section 652 of this title.

Amendment by section 5592(b) of 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)(3), (4) 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, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective with respect to fiscal years beginning on or after Apr. 1, 1996, see

section 202(e) of Pub. L. 103-432, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9133(c), Dec. 22, 1987, 101 Stat. 1330-315, provided that: "The amendments made by this section [amending this section and sections 602, 673, and 675 of this title] shall become effective April 1, 1988."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-272, title I, §102(a)(1), June 17, 1980, 94 Stat. 513, as amended by Pub. L. 98-118, §3(a), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(1), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(1), Apr. 7, 1986, 100 Stat. 294; Pub. L. 100-203, title IX, §9131(a)(1), Dec. 22, 1987, 101 Stat. 1330-313, provided that the amendment made by that section is effective with respect to expenditures made after Sept. 30, 1980.

Pub. L. 96-272, title I, §102(c), June 17, 1980, 94 Stat. 515, as amended by Pub. L. 98-118, §3(b), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(2), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(2), Apr. 7, 1986, 100 Stat. 294; Pub. L. 100-203, title IX, §9131(a)(2), Dec. 22, 1987, 101 Stat. 1330-313, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 608, 673, and 675 of this title] shall be effective only with respect to expenditures made after September 30, 1979."

[Pub. L. 100-203, title IX, §9131(b), Dec. 22, 1987, 101 Stat. 1330-313, provided that: "The amendments made by subsection (a) [amending section 102(a)(1), (c), and (e) of Pub. L. 96-272, set out as notes under this section] shall become effective October 1, 1987."]

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(a)(2) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

CHILDREN VOLUNTARILY REMOVED FROM HOME OF RELATIVE

Pub. L. 96-272, title I, §102(d)(1), June 17, 1980, 94 Stat. 515, provided that: "For purposes of section 472 of the Social Security Act [42 U.S.C. 672], a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein would be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of section 471(a)(16) of such Act [42 U.S.C. 671(a)(16)] have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any child described in the preceding sentence, for purposes of section 472(a)(4) of such Act [42 U.S.C. 672(a)(4)], the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal."

ANNUAL REPORT TO CONGRESS OF NUMBER OF CHILDREN PLACED IN FOSTER CARE PURSUANT TO VOLUNTARY PLACEMENT AGREEMENTS

Pub. L. 96-272, title I, §102(e), June 17, 1980, 94 Stat. 515, as amended by Pub. L. 100-203, title IX, §9131(a)(3), Dec. 22, 1987, 101 Stat. 1330-313, which required the Secretary of Health, Education, and Welfare to submit to Congress a full and complete annual report on the placement of children in foster care pursuant to voluntary placement agreements under this section and section 608 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 12 on page 99 of House Document No. 103-7.

§ 673. Adoption and guardianship assistance program

(a) Agreements with adoptive parents of children with special needs; State payments; qualifying children; amount of payments; changes in circumstances; placement period prior to adoption; nonrecurring adoption expenses

(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 675(3) of this title) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I)(aa)(AA) was removed from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 674 of this title (or section 603 of this title, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(BB) met the requirements of section 672(a)(3) of this title with respect to the home referred to in subitem (AA) of this item;

(bb) meets all of the requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; or

(cc) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 675(4)(B) of this title; and

(II) has been determined by the State, pursuant to subsection (c)(1) of this section, to be a child with special needs; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child—

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs.

(B) Section 672(a)(4) of this title shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I) meets the requirements of subparagraph (A)(i)(II);

(II) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(III) is available for adoption because—

(aa) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(bb) the child's adoptive parents have died; and

(IV) fails to meet the requirements of subparagraph (A)(i) but would meet such requirements if—

(aa) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(bb) the prior adoption were treated as never having occurred; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and is available for adoption because the prior adoption

has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died.

(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 671(a)(28) of this title, the placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child shall be considered never to have been made.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

(i) who has attained—

(I) 18 years of age, or such greater age as the State may elect under section 675(8)(B)(iii) of this title; or

(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term "nonrecurring adoption expenses" means

reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 674(a)(3)(E) of this title.

(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any applicable child for a fiscal year that—

- (i) would be considered a child with special needs under subsection (c)(2);
- (ii) is not a citizen or resident of the United States; and
- (iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for an applicable child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the parents described in subparagraph (A).

(8)(A) A State shall calculate the savings (if any) resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, using a methodology specified by the Secretary or an alternate methodology proposed by the State and approved by the Secretary.

(B) A State shall annually report to the Secretary—

- (i) the methodology used to make the calculation described in subparagraph (A), without regard to whether any savings are found;
- (ii) the amount of any savings referred to in subparagraph (A); and
- (iii) how any such savings are spent, accounting for and reporting the spending separately from any other spending reported to the Secretary under part B or this part.

(C) The Secretary shall make all information reported pursuant to subparagraph (B) available on the website of the Department of Health and Human Services in a location easily accessible to the public.

(D)(i) A State shall spend an amount equal to the amount of the savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, to provide to children of families any service that may be provided under part B or this part. A State shall spend not less than 30 percent of any such savings on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least $\frac{2}{3}$ of the spending by the State to comply with such 30 percent requirement being spent on post-adoption and post-guardianship services.

(ii) Any State spending required under clause (i) shall be used to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or this part.

(b) Aid for dependent children; assistance for minor children in needy families

(1) For purposes of subchapter XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this subchapter (as so in effect) in the State where such child resides.

(2) For purposes of division A¹ of subchapter XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this subchapter and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child—

(A)(i) who is a child described in subsection (a)(2), and

(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),

(B) with respect to whom foster care maintenance payments are being made under section 672 of this title, or

(C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are being made under section 672 of this title.

(c) Children with special needs

For purposes of this section—

(1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined that the child cannot or should not be returned to the home of his parents; and

(B) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the exist-

¹ See References in Text note below.

ence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX; or

(2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;

(B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under subchapter XIX; or

(ii) the child meets all medical or disability requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; and

(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX.

(d) Kinship guardianship assistance payments for children

(1) Kinship guardianship assistance agreement

(A) In general

In order to receive payments under section 674(a)(5) of this title, a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) Minimum requirements

The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of non-recurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000.

(C) Interstate applicability

The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) No effect on Federal reimbursement

Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) Limitations on amount of kinship guardianship assistance payment

A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) Child's eligibility for a kinship guardianship assistance payment

(A) In general

A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 672 of this title while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.

(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) Treatment of siblings

With respect to a child described in subparagraph (A) whose sibling or siblings are not so described—

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 671(a)(31) of this title, if the State agency and the relative agree on the ap-

propriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(C) Eligibility not affected by replacement of guardian with a successor guardian

In the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection shall not be affected by reason of the replacement of the relative guardian with a successor legal guardian named in the kinship guardianship assistance agreement referred to in paragraph (1) (including in any amendment to the agreement), notwithstanding subparagraph (A) of this paragraph and section 671(a)(28) of this title.

(e) Applicable child defined

(1) On the basis of age

(A) In general

Subject to paragraphs (2) and (3), in this section, the term “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

(B) Applicable age

For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017 through 2023	2
2024	2 (or, in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age)
2025 or thereafter	any age.

(2) Exception for duration in care

Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) Exception for member of a sibling group

Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance

agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child—

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).

(Aug. 14, 1935, ch. 531, title IV, § 473, as added and amended Pub. L. 96-272, title I, §§101(a)(1), 102(a)(3), June 17, 1980, 94 Stat. 504, 514; Pub. L. 99-272, title XII, §12305(a), (b)(1), Apr. 7, 1986, 100 Stat. 293; Pub. L. 99-514, title XVII, §1711(a), (b), (c)(3)–(5), Oct. 22, 1986, 100 Stat. 2783, 2784; Pub. L. 99-603, title II, §201(b)(2)(B), Nov. 6, 1986, 100 Stat. 3403; Pub. L. 100-203, title IX, §§9133(b)(3), (4), 9139(b), Dec. 22, 1987, 101 Stat. 1330-314, 1330-321; Pub. L. 103-432, title II, §§265(b), 266(a), Oct. 31, 1994, 108 Stat. 4469; Pub. L. 104-193, title I, §108(d)(5), (6), Aug. 22, 1996, 110 Stat. 2167; Pub. L. 105-33, title V, §5513(b)(3), (4), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-89, title III, §307(a), Nov. 19, 1997, 111 Stat. 2133; Pub. L. 109-171, title VII, §7404(b), Feb. 8, 2006, 120 Stat. 153; Pub. L. 110-351, title I, §101(b), (c)(1), (5), (f), title II, §201(c), title IV, §402, Oct. 7, 2008, 122 Stat. 3950, 3951, 3953, 3958, 3975; Pub. L. 111-148, title VI, §6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803; Pub. L. 112-34, title I, §106(c), Sept. 30, 2011, 125 Stat. 377; Pub. L. 113-183, title II, §§206, 207, Sept. 29, 2014, 128 Stat. 1939, 1940; Pub. L. 115-123, div. E, title VII, §50781(a), Feb. 9, 2018, 132 Stat. 268.)

Editorial Notes

REFERENCES IN TEXT

The Adoption and Safe Families Act of 1997, referred to in subsec. (a)(2)(C)(ii), is Pub. L. 105-89, Nov. 19, 1997, 111 Stat. 2115. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1305 of this title and Tables.

Division A of subchapter XX, referred to in subsec. (b)(2), 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.

AMENDMENTS

2018—Subsec. (e)(1)(B). Pub. L. 115-123, in table, substituted entries for 2017 through 2023, 2024, and 2025 or thereafter for entries for 2017 and 2018 or thereafter.

2014—Subsec. (a)(8). Pub. L. 113-183, §206, amended par. (8) generally. Prior to amendment, par. (8) read as follows: “A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year to provide to children or families any service (including post-adoption services) that may be provided under this part or part B, and shall document how such amounts are spent, including on post-adoption services.”

Subsec. (d)(3)(C). Pub. L. 113-183, §207, added subpar. (C).

2011—Subsec. (a)(8). Pub. L. 112-34 inserted “, and shall document how such amounts are spent, including on post-adoption services” before the period.

2010—Subsec. (b)(2). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Pub. L. 110-351, §101(c)(5), inserted “and guardianship” after “Adoption” in section catchline.

Subsec. (a)(2)(A). Pub. L. 110-351, §402(1)(A)(i), substituted “if—” for “if the child—” in introductory provisions, inserted cl. (i) designation and introductory provisions, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and substituted “subsection (c)(1)” for “subsection (c)” in subcl. (II), redesignated former subcls. (I) to (III) of cl. (i) as items (aa) to (cc), respectively, of cl. (i)(I), redesignated former items (aa) and (bb) of cl. (i)(I) as subitems (AA) and (BB), respectively, of cl. (i)(I)(aa) and substituted “subitem (AA) of this item” for “item (aa) of this subclause” in subitem (BB), realigned margins, and added cl. (ii).

Subsec. (a)(2)(C). Pub. L. 110-351, §402(1)(A)(ii), substituted “if—” for “if the child—” in introductory provisions, inserted cl. (i) designation and introductory provisions, redesignated former cls. (i) to (iv) as subcls. (I) to (IV), respectively, of cl. (i) and substituted “subparagraph (A)(i)(II)” for “subparagraph (A)(ii)” in subcl. (I) and “subparagraph (A)(i)” for “subparagraph (A)” in subcl. (IV), redesignated former subcls. (I) and (II) of cl. (iii) as items (aa) and (bb), respectively, of cl. (i)(III), redesignated former subcls. (I) and (II) of cl. (iv) as items (aa) and (bb), respectively, of cl. (i)(IV), realigned margins, and added cl. (ii).

Subsec. (a)(2)(D). Pub. L. 110-351, §101(c)(1), added subpar. (D).

Subsec. (a)(4). Pub. L. 110-351, §201(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.”

Subsec. (a)(7), (8). Pub. L. 110-351, §402(1)(B), added pars. (7) and (8).

Subsec. (b)(3)(C). Pub. L. 110-351, §101(f), added subpar. (C).

Subsec. (c). Pub. L. 110-351, §402(2), substituted “this section—” for “this section, a child shall not be considered a child with special needs unless—” in introductory provisions, inserted par. (1) designation and introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added par. (2).

Subsec. (d). Pub. L. 110-351, §101(b), added subsec. (d).

Subsec. (e). Pub. L. 110-351, §402(3), added subsec. (e).

2006—Subsec. (a)(2). Pub. L. 109-171 amended par. (2) generally. Prior to amendment, par. (2) contained provisions relating to criteria used for determining whether a child met the requirements of par. (2) for purposes of par. (1)(B)(ii).

1997—Subsec. (a)(2). Pub. L. 105-89 inserted at end “Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child’s adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assist-

ance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).”

Pub. L. 105-33, §5513(b)(3), substituted “July 16, 1996” for “June 1, 1995” wherever appearing.

Subsec. (b)(1). Pub. L. 105-33, §5513(b)(4), substituted “July 16, 1996” for “June 1, 1995”.

1996—Subsec. (a)(2)(A)(i). Pub. L. 104-193, §108(d)(5)(A), inserted “(as such sections were in effect on June 1, 1995)” after “section 607 of this title”, “(as so in effect)” after “specified in section 606(a) of this title”, and “(as such section was in effect on June 1, 1995)” after “603”.

Subsec. (a)(2)(B)(i). Pub. L. 104-193, §108(d)(5)(B), inserted “would have” before “received aid under the State plan” and “(as in effect on June 1, 1995)” after “602 of this title”.

Subsec. (a)(2)(B)(ii)(II). Pub. L. 104-193, §108(d)(5)(C), inserted “(as in effect on June 1, 1995)” after “606(a) of this title”.

Subsec. (b). Pub. L. 104-193, §108(d)(6), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child—

“(1)(A) who is a child described in subsection (a)(2) of this section, and

“(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

“(2) with respect to whom foster care maintenance payments are being made under section 672 of this title,

shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter in the State where such child resides. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are being made under section 672 of this title.”

1994—Subsec. (a)(6)(B). Pub. L. 103-432, §266(a), substituted “section 674(a)(3)(E) of this title” for “section 674(a)(3)(C) of this title”.

Pub. L. 103-432, §265(b), substituted “section 674(a)(3)(C) of this title” for “section 674(a)(3)(B) of this title”.

1987—Subsec. (a)(2). Pub. L. 100-203, §9139(b), made technical amendment to Pub. L. 99-603. See 1986 Amendment note below.

Subsec. (a)(2)(A)(iii). Pub. L. 100-203, §9133(b)(3)(A), added cl. (iii).

Subsec. (a)(2)(B)(iii). Pub. L. 100-203, §9133(b)(3)(B), inserted “or (A)(iii)” after “(A)(ii)”.

Subsec. (b). Pub. L. 100-203, §9133(b)(4), inserted sentence at end.

1986—Subsec. (a)(2). Pub. L. 99-603, as amended Pub. L. 100-203, §9139(b), inserted at end “The last sentence of section 672(a) of this title shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.”

Pub. L. 99-514, §1711(a), substituted par. (1) and introductory text of par. (2) for former introductory text of par. (1) which read as follows: “Each State with a plan approved under this part shall, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (2) of this subsection to parents who, after June 17, 1980, adopt a child who—”. Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 99-514, §1711(a)(1), (c)(3), redesignated par. (2) as (3), substituted “payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)” for “adoption assistance payments”, and inserted “made under clause (ii) of paragraph (1)(B)”. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 99-514, §1711(a)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 99-514, §1711(a)(1), (c)(4), redesignated par. (4) as (5) and substituted “in accordance with applicable State and local law shall be eligible for such payments” for “, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection”.

Subsec. (a)(6). Pub. L. 99-514, §1711(b), added par. (6).

Subsec. (b). Pub. L. 99-272, §12305(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child with respect to whom adoption assistance payments are made under this section shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter.”

Subsec. (b)(1)(A). Pub. L. 99-514, §1711(c)(5), substituted “subsection (a)(2)” for “subsection (a)(1)”.

Subsec. (c)(2). Pub. L. 99-272, §12305(b)(1), substituted “without providing adoption assistance under this section or medical assistance under subchapter XIX” for “without providing adoption assistance”, and inserted “or medical assistance under subchapter XIX” after “appropriate adoptive parents without providing adoption assistance under this section”.

1980—Subsec. (a)(1). Pub. L. 96-272, §102(a)(3), inserted references to voluntary placement agreements in subpars. (A)(i) and (B)(i), (ii).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. E, title VII, §50781(b), Feb. 9, 2018, 132 Stat. 268, provided that: “The amendment made by this section [amending this section] shall take effect as if enacted on January 1, 2018.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 206 of Pub. L. 113-183 effective Oct. 1, 2014, see section 210(d) of Pub. L. 113-183, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(c) of Pub. L. 110-351 effective Oct. 1, 2010, see section 201(d) of Pub. L. 110-351, set out as a note under section 672 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

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 1997 AMENDMENT

Pub. L. 105-89, title III, §307(b), Nov. 19, 1997, 111 Stat. 2133, provided that: “The amendment made by subsection (a) [amending this section] shall only apply to children who are adopted on or after October 1, 1997.”

Amendment by Pub. L. 105-33 effective as if included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 108 became law, see section 5518(b) of Pub. L. 105-33, set out as a note under section 652 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title II, §265(d), Oct. 31, 1994, 108 Stat. 4469, provided that: “Each amendment made by this section [amending this section and sections 608 and 675 of this title] shall take effect as if the amendment had been included in the provision of OBRA-1989 [Pub. L. 101-239] to which the amendment relates, at the time the provision became law.”

Pub. L. 103-432, title II, §266, Oct. 31, 1994, 108 Stat. 4469, provided that: “The amendment made by this section [amending this section] shall take effect as if the amendment had been included in the provision of OBRA-1993 [Pub. L. 103-66] to which the amendment relates, at the time the provision became law.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9133(b)(3), (4) of Pub. L. 100-203 effective Apr. 1, 1988, see section 9133(c) of Pub. L. 100-203, set out as a note under section 672 of this title.

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.

Pub. L. 99-272, title XII, §12305(c), Apr. 7, 1986, 100 Stat. 294, provided that: “The amendments made by this section [amending this section and sections 675 and 1396a of this title] shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act [Apr. 7, 1986].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 102(a)(3) of Pub. L. 96-272 effective only with respect to expenditures made after Sept. 30, 1979, see section 102(c) of Pub. L. 96-272, set out as a note under section 672 of this title.

§ 673a. Interstate compacts

The Secretary of Health and Human Services shall take all possible steps to encourage and assist the various States to enter into interstate compacts (which are hereby approved by the Congress) under which the interests of any adopted child with respect to whom an adoption assistance agreement has been entered into by a State under section 673 of this title will be adequately protected, on a reasonable and equitable basis which is approved by the Secretary, if and when the child and his or her adoptive parent (or parents) move to another State.

(Pub. L. 96-272, title I, §101(a)(4)(B), June 17, 1980, 94 Stat. 512.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Adoption Assistance and Child Welfare Act of 1980, and not as part of the Social Security Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

§ 673b. Adoption and legal guardianship incentive payments

(a) Grant authority

Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption and legal guardianship incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

(b) Incentive-eligible State

A State is an incentive-eligible State for a fiscal year if—

- (1) the State has a plan approved under this part for the fiscal year;
- (2) the State is in compliance with subsection (c) for the fiscal year;
- (3) the State provides health insurance coverage to any child with special needs (as determined under section 673(c) of this title) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and
- (4) the fiscal year is any of fiscal years 2016 through 2020.

(c) Data requirements

(1) In general

A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

- (A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and
- (B) for each succeeding fiscal year that precedes the fiscal year.

(2) Determination of rates of adoptions and guardianships based on AFCARS data

The Secretary shall determine each of the rates required to be determined under this section with respect to a State and a fiscal year, on the basis of data meeting the requirements of the system established pursuant to section 679 of this title, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year, and, with respect to the

determination of the rates related to foster child guardianships, on the basis of information reported to the Secretary under paragraph (12) of subsection (g).

(3) No waiver of AFCARS requirements

This section shall not be construed to alter or affect any requirement of section 679 of this title or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

(d) Adoption and legal guardianship incentive payment

(1) In general

Except as provided in paragraphs (2) and (3), the adoption and legal guardianship incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

(A) \$5,000, multiplied by the amount (if any) by which—

- (i) the number of foster child adoptions in the State during the fiscal year; exceeds
- (ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child adoptions for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year;

(B) \$7,500, multiplied by the amount (if any) by which—

- (i) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships in the State during the fiscal year; exceeds
- (ii) the product (rounded to the nearest whole number) of—

(I) the base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 9 years of age but not 14 years of age; and

(C) \$10,000, multiplied by the amount (if any) by which—

- (i) the number of older child adoptions and older foster child guardianships in the State during the fiscal year; exceeds
- (ii) the product (rounded to the nearest whole number) of—

(I) the base rate of older child adoptions and older foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year who have attained 14 years of age; and

(D) \$4,000, multiplied by the amount (if any) by which—

- (i) the number of foster child guardianships in the State during the fiscal year; exceeds

(ii) the product (rounded to the nearest whole number) of—

(I) the base rate of foster child guardianships for the State for the fiscal year; and

(II) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) Pro rata adjustment if insufficient funds available

For any fiscal year, if the total amount of adoption incentive payments otherwise payable under paragraph (1) for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under paragraph (1) for the fiscal year shall be—

(A) the amount of the adoption and legal guardianship incentive payment that would otherwise be payable to the State under paragraph (1) for the fiscal year; multiplied by

(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption and legal guardianship incentive payments otherwise payable under paragraph (1) for the fiscal year.

(3) Increased adoption and legal guardianship incentive payment for timely adoptions

(A) In general

If for any of fiscal years 2013 through 2015, the total amount of adoption and legal guardianship incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year, then, from the remainder of the amount appropriated for the fiscal year that is not required for such payments (in this paragraph referred to as the “timely adoption award pool”), the Secretary shall increase the adoption incentive payment determined under paragraph (1) for each State that the Secretary determines is a timely adoption award State for the fiscal year by the award amount determined for the fiscal year under subparagraph (C).

(B) Timely adoption award State defined

A State is a timely adoption award State for a fiscal year if the Secretary determines that, for children who were in foster care under the supervision of the State at the time of adoptive placement, the average number of months from removal of children from their home to the placement of children in finalized adoptions is less than 24 months.

(C) Award amount

For purposes of subparagraph (A), the award amount determined under this subparagraph with respect to a fiscal year is the amount equal to the timely adoption award pool for the fiscal year divided by the number of timely adoption award States for the fiscal year.

(e) 36-month availability of incentive payments

Payments to a State under this section in a fiscal year shall remain available for use by the State for the 36-month period beginning with the month in which the payments are made.

(f) Limitations on use of incentive payments

A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E, and shall use the amount to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 624, 629d, and 674 of this title.

(g) Definitions

As used in this section:

(1) Foster child adoption rate

The term “foster child adoption rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child adoptions finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(2) Base rate of foster child adoptions

The term “base rate of foster child adoptions” means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child adoption rate for the State for the then immediately preceding fiscal year; or

(B) the foster child adoption rate for the State for the average of the then immediately preceding 3 fiscal years.

(3) Foster child adoption

The term “foster child adoption” means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

(4) Pre-adolescent child adoption and pre-adolescent foster child guardianship rate

The term “pre-adolescent child adoption and pre-adolescent foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of pre-adolescent child adoptions and pre-adolescent foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 9 years of age but not 14 years of age.

(5) Base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships

The term “base rate of pre-adolescent child adoptions and pre-adolescent foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the pre-adolescent child adoption and pre-adolescent foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(6) Pre-adolescent child adoption and pre-adolescent foster child guardianship

The term “pre-adolescent child adoption and pre-adolescent foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 9 years of age but not 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 673(a) of this title with respect to the child.

(7) Older child adoption and older foster child guardianship rate

The term “older child adoption and older foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of older child adoptions and older foster child guardianships finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year, who have attained 14 years of age.

(8) Base rate of older child adoptions and older foster child guardianships

The term “base rate of older child adoptions and older foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the older child adoption and older foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the older child adoption and older foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(9) Older child adoption and older foster child guardianship

The term “older child adoption and older foster child guardianship” means the final adoption, or the placement into foster child guardianship (as defined in paragraph (12)) of a child who has attained 14 years of age if—

(A) at the time of the adoptive or foster child guardianship placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 673(a) of this title with respect to the child.

(10) Foster child guardianship rate

The term “foster child guardianship rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child guardianships occurring in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(11) Base rate of foster child guardianships

The term “base rate of foster child guardianships” means, with respect to a State and a fiscal year, the lesser of—

(A) the foster child guardianship rate for the State for the then immediately preceding fiscal year; or

(B) the foster child guardianship rate for the State for the average of the then immediately preceding 3 fiscal years.

(12) Foster child guardianship

The term “foster child guardianship” means, with respect to a State, the exit of a child from foster care under the responsibility of the State to live with a legal guardian, if the State has reported to the Secretary—

(A) that the State agency has determined that—

(i) the child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;

(ii) being returned home or adopted are not appropriate permanency options for the child;

(iii) the child demonstrates a strong attachment to the prospective legal guardian, and the prospective legal guardian has a strong commitment to caring permanently for the child; and

(iv) if the child has attained 14 years of age, the child has been consulted regarding the legal guardianship arrangement; or

(B) the alternative procedures used by the State to determine that legal guardianship is the appropriate option for the child.

(h) Limitations on authorization of appropriations

(1) In general

For grants under subsection (a), there are authorized to be appropriated to the Secretary—

(A) \$20,000,000 for fiscal year 1999;

(B) \$43,000,000 for fiscal year 2000;

(C) \$20,000,000 for each of fiscal years 2001 through 2003; and

(D) \$43,000,000 for each of fiscal years 2004 through 2021.

(2) Availability

Amounts appropriated under paragraph (1), or under any other law for grants under subsection (a), are authorized to remain available until expended, but not after fiscal year 2021.

(i) Technical assistance

(1) In general

The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of

adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

(2) Description of the character of the technical assistance

The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

(A) The development of best practice guidelines for expediting termination of parental rights.

(B) Models to encourage the use of concurrent planning.

(C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.

(F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

(3) Targeting of technical assistance to the courts

Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

(4) Limitations on authorization of appropriations

To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 2004 through 2006.

(Aug. 14, 1935, ch. 531, title IV, §473A, as added Pub. L. 105-89, title II, §201(a), Nov. 19, 1997, 111 Stat. 2122; amended Pub. L. 105-200, title IV, §410(f), July 16, 1998, 112 Stat. 673; Pub. L. 106-169, title I, §131, Dec. 14, 1999, 113 Stat. 1830; Pub. L. 108-145, §3(a), Dec. 2, 2003, 117 Stat. 1879; Pub. L. 109-288, §6(f)(7), Sept. 28, 2006, 120 Stat. 1248; Pub. L. 110-351, title IV, §401, Oct. 7, 2008, 122 Stat. 3973; Pub. L. 113-183, title II, §§201-205, Sept. 29, 2014, 128 Stat. 1935-1939; Pub. L. 115-123, div. E, title VII, §50761(a), Feb. 9, 2018, 132 Stat. 267.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b)(4). Pub. L. 115-123, §50761(a)(1), substituted “2016 through 2020” for “2013 through 2015”.

Subsec. (h)(1)(D). Pub. L. 115-123, §50761(a)(2), substituted “2021” for “2016”.

Subsec. (h)(2). Pub. L. 115-123, §50761(a)(3), substituted “2021” for “2016”.

2014—Pub. L. 113-183, §203(a), amended section catchline generally. Prior to amendment, catchline read as follows: “Adoption incentive payments”.

Subsec. (a). Pub. L. 113-183, §203(b)(1), inserted “and legal guardianship” after “adoption”.

Subsec. (b)(2) to (4). Pub. L. 113-183, §202(a), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows:

“(A) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

“(B) the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year; or

“(C) the State’s foster child adoption rate for the fiscal year exceeds the highest ever foster child adoption rate determined for the State;”.

Subsec. (b)(5). Pub. L. 113-183, §202(a), redesignated par. (5) as (4).

Pub. L. 113-183, §201(1), substituted “2013 through 2015” for “2008 through 2012”.

Subsec. (c)(2). Pub. L. 113-183, §202(b), in heading, substituted “rates of adoptions and guardianships” for “numbers of adoptions” and, in text, substituted “each of the rates required to be determined under this section with respect to a State and a fiscal year,” for “the numbers of foster child adoptions, of special needs adoptions that are not older child adoptions, and of older child adoptions in a State during a fiscal year, and the foster child adoption rate for the State for the fiscal year, for purposes of this section,” and inserted before period at end “, and, with respect to the determination of the rates related to foster child guardianships, on the basis of information reported to the Secretary under paragraph (12) of subsection (g)”.

Subsec. (d). Pub. L. 113-183, §203(b)(2), inserted “and legal guardianship” after “Adoption” in heading.

Subsec. (d)(1). Pub. L. 113-183, §203(b)(1), inserted “and legal guardianship” after “adoption” in introductory provisions.

Pub. L. 113-183, §202(c)(1), added subpars. (A) to (D) and struck out former subpars. (A) to (C) which read as follows:

“(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

“(B) \$4,000, multiplied by the amount (if any) by which the number of special needs adoptions that are not older child adoptions in the State during the fiscal year exceeds the base number of special needs adoptions that are not older child adoptions for the State for the fiscal year; and

“(C) \$8,000, multiplied by the amount (if any) by which the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year.”

Subsec. (d)(2). Pub. L. 113-183, §203(b)(1), inserted “and legal guardianship” after “adoption” in subpars. (A) and (B).

Subsec. (d)(3). Pub. L. 113-183, §202(c)(2), added par. (3) and struck out former par. (3) which related to increased incentive payment for exceeding the highest ever foster child adoption rate.

Subsec. (e). Pub. L. 113-183, §205, substituted “36-month” for “24-month” in heading and text.

Subsec. (f). Pub. L. 113-183, §204, inserted “, and shall use the amount to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or E” before period in the first sentence.

Subsec. (g). Pub. L. 113-183, §202(d), added pars. (1) to (12) and struck out former pars. (1) to (8) which defined “foster child adoption”, “special needs adoption”, “base number of foster child adoptions for a State”, “base number of special needs adoptions that are not older child adoptions for a State”, “base number of older child adoptions for a State”, “older child adoptions”, “highest ever foster child adoption rate”, and “foster child adoption rate”, respectively.

Subsec. (h)(1)(D), (2). Pub. L. 113-183, §201(2), substituted “2016” for “2013”.

2008—Subsec. (b)(2)(C). Pub. L. 110-351, §401(e)(3)(A), added subpar. (C).

Subsec. (b)(4). Pub. L. 110-351, §401(a)(1), struck out “in the case of fiscal years 2001 through 2007,” before “the State provides”.

Subsec. (b)(5). Pub. L. 110-351, §401(a)(2), substituted “2008 through 2012” for “1998 through 2007”.

Subsec. (c)(2). Pub. L. 110-351, §401(a)(3), (e)(3)(B), substituted “during a fiscal year, and the foster child adoption rate for the State for the fiscal year,” for “during each of fiscal years 2002 through 2007”.

Subsec. (d)(1). Pub. L. 110-351, §401(e)(1)(A), substituted “paragraphs (2) and (3)” for “paragraph (2)” in introductory provisions.

Subsec. (d)(1)(B). Pub. L. 110-351, §401(c)(1), substituted “\$4,000” for “\$2,000”.

Subsec. (d)(1)(C). Pub. L. 110-351, §401(c)(2), substituted “\$8,000” for “\$4,000”.

Subsec. (d)(2). Pub. L. 110-351, §401(e)(1)(B), substituted “paragraph (1)” for “this section” wherever appearing.

Subsec. (d)(3). Pub. L. 110-351, §401(e)(1)(C), added par. (3).

Subsec. (e). Pub. L. 110-351, §401(d), substituted “24-month” for “2-year” in heading and “for the 24-month period beginning with the month in which the payments are made” for “through the end of the succeeding fiscal year” in text.

Subsec. (g)(3). Pub. L. 110-351, §401(b)(1), substituted “means, with respect to any fiscal year, the number of foster child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of foster child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(4). Pub. L. 110-351, §401(b)(2), inserted “that are not older child adoptions” before “for a State” and substituted “means, with respect to any fiscal year, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of special needs adoptions that are not older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(5). Pub. L. 110-351, §401(b)(3), substituted “means, with respect to any fiscal year, the number of older child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(7), (8). Pub. L. 110-351, §401(e)(2), added pars. (7) and (8).

Subsec. (h)(1)(D), (2). Pub. L. 110-351, §401(a)(4), substituted “2013” for “2008”.

2006—Subsec. (f). Pub. L. 109-288 substituted “624” for “623”.

2003—Subsec. (b)(2). Pub. L. 108-145, §3(a)(1)(A), added par. (2) and struck out former par. (2) which read as follows: “the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year.”

Subsec. (b)(4). Pub. L. 108-145, §3(a)(1)(B), substituted “through 2007” for “and 2002”.

Subsec. (b)(5). Pub. L. 108-145, §3(a)(1)(C), substituted “2007” for “2002”.

Subsec. (c)(2). Pub. L. 108-145, §3(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) DETERMINATIONS BASED ON AFCARS DATA.—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1995 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 679 of this title, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

“(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997.—For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by April 30, 1998, and approved by the Secretary by July 1, 1998.”

Subsec. (d)(1). Pub. L. 108-145, §3(a)(3), inserted “that are not older child adoptions” after “adoptions” in two places in subpar. (B) and added subpar. (C).

Subsec. (g)(3)(A), (B). Pub. L. 108-145, §3(a)(4)(A), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

“(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.”

Subsec. (g)(4). Pub. L. 108-145, §3(a)(4)(B), inserted “that are not older child adoptions” after “adoptions” in heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows:

“(A) with respect to fiscal year 1998, the average number of special needs adoptions in the State in fiscal years 1995, 1996, and 1997; and

“(B) with respect to any subsequent fiscal year, the number of special needs adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.”

Subsec. (g)(5), (6). Pub. L. 108-145, §3(a)(4)(C), added pars. (5) and (6).

Subsec. (h)(1)(D). Pub. L. 108-145, §3(a)(5)(A), added subpar. (D).

Subsec. (h)(2). Pub. L. 108-145, §3(a)(5)(B), inserted “, or under any other law for grants under subsection (a),” after “(1)” and substituted “2008” for “2003”.

Subsec. (i)(4). Pub. L. 108-145, §3(a)(6), substituted “2004 through 2006” for “1998 through 2000”.

Subsec. (j). Pub. L. 108-145, §3(a)(7), struck out subsec. (j) which related to supplemental grants.

1999—Subsec. (h)(1). Pub. L. 106-169, §131(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “For grants under subsection (a) of this section, there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 1999 through 2003.”

Subsec. (j). Pub. L. 106-169, §131(a), added subsec. (j).

1998—Subsec. (c)(2)(B). Pub. L. 105-200 substituted “April 30, 1998” for “November 30, 1997” and “July 1, 1998” for “March 1, 1998”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. E, title VII, §50761(b), Feb. 9, 2018, 132 Stat. 267, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if enacted on October 1, 2017.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by sections 201 and 205 of Pub. L. 113-183 effective as if enacted on Oct. 1, 2013, see section 210(a) of Pub. L. 113-183, set out as a note under section 671 of this title.

Amendment by sections 202 and 203 of Pub. L. 113-183 effective Oct. 1, 2014, subject to a transition rule, see section 210(b) of Pub. L. 113-183, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after such date, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-145, § 5, Dec. 2, 2003, 117 Stat. 1882, provided that: "The amendments made by this Act [amending this section and section 674 of this title] shall take effect on October 1, 2003."

EFFECTIVE DATE

Section 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 an Effective Date of 1997 Amendment note under section 622 of this title.

FINDINGS

Pub. L. 108-145, § 2, Dec. 2, 2003, 117 Stat. 1879, provided that: "The Congress finds the following:

"(1) In 1997, the Congress passed the Adoption and Safe Families Act of 1997 [Pub. L. 105-89; see Short Title of 1997 Amendment note set out under section 1305 of this title] to promote comprehensive child welfare reform to ensure that consideration of children's safety is paramount in child welfare decisions, and to provide a greater sense of urgency to find every child a safe, permanent home.

"(2) The Adoption and Safe Families Act of 1997 also created the Adoption Incentives program, which authorizes incentive payments to States to promote adoptions, with additional incentives provided for the adoption of foster children with special needs.

"(3) Since 1997, all States, the District of Columbia, and Puerto Rico have qualified for incentive payments for their work in promoting adoption of foster children.

"(4) Between 1997 and 2002, adoptions increased by 64 percent, and adoptions of children with special needs increased by 63 percent; however, 542,000 children remain in foster care, and 126,000 are eligible for adoption.

"(5) Although substantial progress has been made to promote adoptions, attention should be focused on promoting adoption of older children. Recent data suggest that half of the children waiting to be adopted are age 9 or older."

§ 673c. Repealed. Pub. L. 109-239, § 4(c), July 3, 2006, 120 Stat. 512

Section, act Aug. 14, 1935, ch. 531, title IV, § 473B, as added Pub. L. 109-239, § 4(b), July 3, 2006, 120 Stat. 510, related to timely interstate home study incentive payments.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 109-239, § 4(c), July 3, 2006, 120 Stat. 512, provided that the repeal of this section is effective Oct. 1, 2010.

§ 674. Payments to States

(a) Amounts

For each quarter beginning after September 30, 1980, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

(1) subject to subsections (j) and (k) of section 672 of this title, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as foster care maintenance payments under section 672 of this title for children in foster family homes or child-care institutions (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the "tribal FMAP") if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(2) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as adoption assistance payments under section 673 of this title pursuant to adoption assistance agreements (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the "tribal FMAP") if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(3) subject to section 672(i) of this title an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including

both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision.

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents or relative guardians, the members of the staff of State-licensed or State-approved child care institutions providing care, or State-licensed or State-approved child welfare agencies providing services, to children receiving assistance under this part, and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts, in ways that increase the ability of such current or prospective parents, guardians, staff members, institutions, attorneys, and advocates to provide support and assistance to foster and adopted children and children living with relative guardians, whether incurred directly by the State or by contract.

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

(i) meet the requirements imposed by regulations promulgated pursuant to section 679(b)(2) of this title;

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus

(4) an amount equal to the amount (if any) by which—

(A) the lesser of—

(i) 80 percent of the amounts expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 677(b) of this title for the period in which the quarter occurs (including any amendment that meets the requirements of section 677(b)(5) of this title); or

(ii) the amount allotted to the State under section 677(c)(1) of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year; exceeds

(B) the total amount of any penalties assessed against the State under section 677(e) of this title during the fiscal year in which the quarter occurs; plus

(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 673(d) of this title pursuant to kinship guardianship assistance agreements; plus

(6) subject to section 671(e) of this title—

(A) for each quarter—

(i) subject to clause (ii)—

(I) beginning after September 30, 2019, and before October 1, 2026, an amount equal to 50 percent of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 671(e)(1) of this title that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 671(e)(4)(C) of this title; and

(II) beginning after September 30, 2026, an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during the quarter for the provision of services or programs specified in subparagraph (A) or (B) of section 671(e)(1) of this title that are provided in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 671(e)(4)(C) of this title (or, with respect to the payments made during the quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the “tribal FMAP”) if the Indian tribe, tribal organization, or tribal consortium made the

payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); except that

(ii) not less than 50 percent of the total amount expended by a State under clause (i) for a fiscal year shall be for the provision of services or programs specified in subparagraph (A) or (B) of section 671(e)(1) of this title that are provided in accordance with well-supported practices; plus

(B) for each quarter specified in subparagraph (A), an amount equal to the sum of the following proportions of the total amount expended during the quarter—

(i) 50 percent of so much of the expenditures as are found necessary by the Secretary for the proper and efficient administration of the State plan for the provision of services or programs specified in section 671(e)(1) of this title, including expenditures for activities approved by the Secretary that promote the development of necessary processes and procedures to establish and implement the provision of the services and programs for individuals who are eligible for the services and programs and expenditures attributable to data collection and reporting; and

(ii) 50 percent of so much of the expenditures with respect to the provision of services and programs specified in section 671(e)(1) of this title as are for training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision and of the members of the staff of State-licensed or State-approved child welfare agencies providing services to children described in section 671(e)(2) of this title and their parents or kin caregivers, including on how to determine who are individuals eligible for the services or programs, how to identify and provide appropriate services and programs, and how to oversee and evaluate the ongoing appropriateness of the services and programs; plus

(7) an amount equal to 50 percent of the amounts expended by the State during the quarter as the Secretary determines are for kinship navigator programs that meet the requirements described in section 627(a)(1) of this title and that the Secretary determines are operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 671(e)(4)(C) of this title, without regard to whether the expenditures are incurred on behalf of children who are, or are potentially, eligible for foster care maintenance payments under this part.

(b) Quarterly estimates of State's entitlement for next quarter; payments; United States' pro rata share of amounts recovered as overpayment; allowance, disallowance, or deferral of claim

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a

State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with subsection (a), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

(I) upon completion of the review, if it is determined that the claim is not allowable; or

(II) on the basis of findings of an audit or financial management review.

(c) Automated data collection expenditures

The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d) Reduction for violation of plan requirement

(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under

section 1320a-2a of this title, or otherwise, to have violated paragraph (18) or (23) of section 671(a) of this title with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1320a-2a(b)(3) of this title, the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1320a-2a of this title, to have implemented a corrective action plan with respect to such violation, by—

(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

(2) Any other entity which is in a State that receives funds under this part and which violates paragraph (18) or (23) of section 671(a) of this title during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 671(a)(18) of this title by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.].

(e) Discretionary grants for educational and training vouchers for youths aging out of foster care

From amounts appropriated pursuant to section 677(h)(2) of this title, the Secretary may make a grant to a State with a plan approved under this part, for a calendar quarter, in an amount equal to the lesser of—

(1) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in section 677(a)(6)¹ of this title; or

(2) the amount, if any, allotted to the State under section 677(c)(3) of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this subsection for such purposes for all prior quarters in the fiscal year.

(f) Reduction for failure to submit required data

(1) If the Secretary finds that a State has failed to submit to the Secretary data, as re-

quired by regulation, for the data collection system implemented under section 679 of this title, the Secretary shall, within 30 days after the date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1320a-2a(b)(3) of this title, the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

(A) $\frac{1}{6}$ of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

(B) $\frac{1}{4}$ of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.

(g) Continued services under waiver

For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1320a-9 of this title, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.

(Aug. 14, 1935, ch. 531, title IV, §474, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 506; amended Pub. L. 96-611, §3, Dec. 28, 1980, 94 Stat. 3567; Pub. L. 98-369, div. B, title VI, §2663(c)(18), July 18, 1984, 98 Stat. 1167; Pub. L. 98-617, §4(a), (b), Nov. 8, 1984, 98 Stat. 3296, 3297; Pub. L. 99-272, title XII, §§12306(a), (b), 12307(c), Apr. 7, 1986, 100 Stat. 294, 296; Pub. L. 99-514, title XVIII, §1883(b)(9), Oct. 22, 1986, 100 Stat. 2917; Pub. L. 100-203, title IX, §9132(a), Dec. 22, 1987, 101 Stat. 1330-313; Pub. L. 101-239, title VIII, §§8001(a), 8002(c), 8006(a), title X, §§10401(a), 10402(a), 10403(c)(1), Dec. 19, 1989, 103 Stat. 2452, 2453, 2461, 2487, 2488; Pub. L. 101-508, title V, §5071(a), Nov. 5, 1990, 104 Stat. 1388-233; Pub. L. 103-66, title XIII, §13713(a)(1), (2), (b)(1), Aug. 10, 1993, 107 Stat. 656, 657; Pub. L. 103-432, title II, §§207(a), (b), 210(a), Oct. 31, 1994, 108 Stat. 4457, 4460; Pub. L. 104-188, title I, §1808(b), Aug. 20, 1996, 110 Stat. 1903; Pub. L. 105-89, title II, §202(b), Nov. 19, 1997, 111 Stat. 2125; Pub. L. 105-200, title III, §301(b), (c), title IV, §410(g), July 16, 1998, 112 Stat. 658, 674; Pub. L. 106-169, title I, §101(c), Dec. 14, 1999, 113 Stat. 1828; Pub. L. 107-133, title II, §201(f), Jan. 17, 2002, 115 Stat. 2424; Pub. L. 108-145, §4, Dec. 2, 2003, 117 Stat.

¹ See References in Text note below.

1881; Pub. L. 109-171, title VII, §7403(b), Feb. 8, 2006, 120 Stat. 151; Pub. L. 110-275, title III, §302(a), July 15, 2008, 122 Stat. 2594; Pub. L. 110-351, title I, §101(c)(3), (d), title II, §203(a), title III, §301(c)(2), Oct. 7, 2008, 122 Stat. 3952, 3953, 3959, 3970; Pub. L. 115-123, div. E, title VII, §§50711(c), 50712(b), 50713, 50741(a)(2), Feb. 9, 2018, 132 Stat. 240, 245, 255.)

Editorial Notes

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in subsec. (d)(4), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

Section 677(a)(6) of this title, referred to in subsec. (e)(1), was redesignated section 677(a)(5) of this title by Pub. L. 115-123, div. E, title VII, §50753(d)(2)(D), Feb. 9, 2018, 132 Stat. 265.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-123, §50741(a)(2), substituted “subsections (j) and (k) of section 672 of this title” for “section 672(j) of this title”.

Pub. L. 115-123, §50712(b), inserted “subject to section 672(j) of this title,” before “an amount equal to the Federal” the first place appearing.

Subsec. (a)(5). Pub. L. 115-123, §50711(c)(1), substituted “; plus” for period at end.

Subsec. (a)(6). Pub. L. 115-123, §50713(1), substituted “; plus” for period at end.

Pub. L. 115-123, §50711(c)(2), added par. (6).

Subsec. (a)(7). Pub. L. 115-123, §50713(2), added par. (7).

2008—Subsec. (a)(1), (2). Pub. L. 110-351, §301(c)(2), inserted “(or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the ‘tribal FMAP’) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State)” before semicolon.

Pub. L. 110-275 substituted “(which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia)” for “(as defined in section 1396d(b) of this title)”.

Subsec. (a)(3)(B). Pub. L. 110-351, §203(a), inserted “or relative guardians” after “adoptive parents”, substituted “, the members” for “and the members”, inserted “, or State-licensed or State-approved child welfare agencies providing services,” after “providing care”, struck out “foster and adopted” before “children receiving assistance”, inserted “and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts,” after “part,”, inserted “guardians,” before “staff members,”, substituted “institutions, attorneys, and advocates” for “and institutions”, and inserted “and children living with relative guardians” before “, whether incurred directly”.

Subsec. (a)(4). Pub. L. 110-351, §101(c)(3)(A), substituted “; plus” for period at end.

Subsec. (a)(5). Pub. L. 110-351, §101(c)(3)(B), added par. (5).

Subsec. (g). Pub. L. 110-351, §101(d), added subsec. (g).

2006—Subsec. (a)(3). Pub. L. 109-171 inserted “subject to section 672(i) of this title” before “an amount equal to” in introductory provisions.

2003—Subsec. (f). Pub. L. 108-145 added subsec. (f).

2002—Subsec. (a)(4). Pub. L. 107-133, §201(f)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “the lesser of—

“(A) 80 percent of the amount (if any) by which—

“(i) the total amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 677(b) of this title for the period in which the quarter occurs (including any amendment that meets the requirements of section 677(b)(5) of this title); exceeds

“(ii) the total amount of any penalties assessed against the State under section 677(e) of this title during the fiscal year in which the quarter occurs; or

“(B) the amount allotted to the State under section 677 of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year.”

Subsec. (e). Pub. L. 107-133, §201(f)(2), added subsec. (e).

1999—Subsec. (a)(4). Pub. L. 106-169 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “an amount equal to the sum of—

“(A) so much of the amounts expended by such State to carry out programs under section 677 of this title as do not exceed the basic amount for such State determined under section 677(e)(1) of this title; and

“(B) the lesser of—

“(i) one-half of any additional amounts expended by such State for such programs; or

“(ii) the maximum additional amount for such State under such section 677(e)(1) of this title.”

1998—Subsec. (a). Pub. L. 105-200, §410(g), struck out “(subject to the limitations imposed by subsection (b) of this section)” after “this part” in introductory provisions.

Subsec. (d)(1), (2). Pub. L. 105-200, §301(b), substituted “paragraph (18) or (23) of section 671(a) of this title” for “section 671(a)(18) of this title”.

Subsec. (e). Pub. L. 105-200, §301(c), struck out subsec. (e) which read as follows: “Notwithstanding subsection (a) of this section, a State shall not be eligible for any payment under this section if the Secretary finds that, after November 19, 1997, the State has—

“(1) denied or delayed 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

“(2) failed to grant an opportunity for a fair hearing, as described in section 671(a)(12) of this title, to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.”

1997—Subsec. (e). Pub. L. 105-89 added subsec. (e).

1996—Subsec. (d). Pub. L. 104-188 added subsec. (d).

1994—Subsec. (b). Pub. L. 103-432, §207(a), (b)(2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to maximum aggregate sums payable to any State and State allotments for fiscal years 1981 to 1992.

Subsec. (b)(4). Pub. L. 103-432, §210(a), added par. (4).

Subsec. (c). Pub. L. 103-432, §207(a), (b)(2), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to reimbursement for expenditures.

Subsec. (d). Pub. L. 103-432, §207(b)(2), redesignated subsec. (d) as (b).

Subsec. (d)(1). Pub. L. 103-432, §207(b)(1), substituted “subsection (a) for such quarter” for “subsections (a), (b), and (c) for such quarter” and “subsection (a)” for “the provisions of such subsections”.

Subsec. (e). Pub. L. 103-432, §207(b)(2), redesignated subsec. (e) as (c).

1993—Subsec. (a)(3)(B). Pub. L. 103-66, §13713(a)(1)(A), struck out “and” at end.

Subsec. (a)(3)(C). Pub. L. 103-66, §13713(b)(1), substituted “50 percent” for “75 percent” in two places in introductory provisions.

Pub. L. 103-66, §13713(a)(1)(C), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (a)(3)(D), (E). Pub. L. 103-66, §13713(a)(1)(B), (C), added subpar. (D) and redesignated former subpar. (C) as (E).

Subsec. (e). Pub. L. 103-66, §13713(a)(2), added subsec. (e).

1990—Subsec. (a)(3). Pub. L. 101-508 inserted “provision of child placement services and for the” before “proper and efficient”.

1989—Subsec. (a)(3)(B), (C). Pub. L. 101-239, §8006(a), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(4). Pub. L. 101-239, §8002(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “an amount for transitional independent living programs as provided in section 677 of this title.”

Subsec. (b)(1). Pub. L. 101-239, §10403(c)(1), amended Pub. L. 98-617, §4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, §8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(2)(A)(iv). Pub. L. 101-239, §10402(a), added cl. (iv).

Subsec. (b)(2)(B). Pub. L. 101-239, §10403(c)(1), amended Pub. L. 98-617, §4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, §8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(4)(B). Pub. L. 101-239, §10403(c)(1), amended Pub. L. 98-617, §4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, §8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(5)(A). Pub. L. 101-239, §8001(a), substituted “1992” for “1989” in introductory provisions and in cl. (ii).

Subsec. (c)(1), (2). Pub. L. 101-239, §8001(a), substituted “through 1992” for “through 1989”.

Subsec. (c)(4)(B), (C). Pub. L. 101-239, §10401(a), substituted “\$325,000,000” for “\$266,000,000”.

1987—Subsec. (b)(1), (2)(A)(iii), (B), (4)(B). Pub. L. 100-203, §9132(a)(1), substituted “through 1989” for “through 1987”.

Subsec. (b)(5)(A). Pub. L. 100-203, §9132(a)(1), (2), substituted “October 1, 1989” for “October 1, 1987” in introductory provisions and “through 1989” for “through 1987” in cl. (ii).

Subsec. (c)(1), (2). Pub. L. 100-203, §9132(a)(3), substituted “through 1989” for “through 1987”.

1986—Subsec. (a)(3). Pub. L. 99-272, §12307(c)(1), substituted “; plus” for period at end.

Subsec. (a)(4). Pub. L. 99-514 realigned margins of par. (4).

Pub. L. 99-272, §12307(c)(2), added par. (4).

Subsec. (b)(1). Pub. L. 99-272, §12306(a)(1), substituted “1987” for “1985”.

Subsec. (b)(2)(A). Pub. L. 99-272, §12306(a)(2), substituted in cl. (iii) “each of the fiscal years 1983 through 1987” for “fiscal year 1983”, and struck out cls. (iv) and (v) relating to limitations with respect to fiscal years 1984 and 1985, respectively, if the appropriation for each of those years is equal to \$266,000,000.

Subsec. (b)(2)(B), (4)(B). Pub. L. 99-272, §12306(a)(1), substituted “1987” for “1985”.

Subsec. (b)(5)(A). Pub. L. 99-272, §12306(a)(3), substituted “October 1, 1987” for “October 1, 1985” in introductory provision, and in cl. (ii) substituted “1984 through 1987” for “1984 and 1985”.

Subsec. (c)(1), (2). Pub. L. 99-272, §12306(b), substituted “1987” for “1985”.

1984—Subsec. (b)(1). Pub. L. 98-617, §4(a)(1)(A), formerly §4(a)(1), as redesignated and amended by Pub. L. 101-239, §10403(c)(1), substituted “1985” for “1984” after “1981 through”.

Subsec. (b)(2)(A)(v). Pub. L. 98-617, §4(a)(2), added cl. (v).

Subsec. (b)(2)(B). Pub. L. 98-617, §4(a)(1)(B), formerly §4(a)(1), as redesignated and amended by Pub. L. 101-239, §10403(c)(1), substituted “1981 through 1985” for “1982 through 1984”.

Subsec. (b)(4)(A). Pub. L. 98-369, §2663(c)(18)(A), substituted “subparagraph (C)” for “subparagraph (c)”.

Subsec. (b)(4)(B). Pub. L. 98-617, §4(a)(1)(A), formerly §4(a)(1), as redesignated and amended by Pub. L. 101-239, §10403(c)(1), substituted “1985” for “1984” after “1981 through”.

Subsec. (b)(5)(A). Pub. L. 98-617, §4(a)(3)(A), substituted “October 1, 1985” for “October 1, 1984”.

Subsec. (b)(5)(A)(ii). Pub. L. 98-617, §4(a)(3)(B), substituted “each of fiscal years 1984 and 1985” for “fiscal year 1984”.

Subsec. (c)(1), (2). Pub. L. 98-617, §4(b), substituted “1985” for “1984” after “1981 through”.

Pub. L. 98-369, §2663(c)(18)(B), substituted “relevant” for “relvant”.

Subsec. (d)(1). Pub. L. 98-369, §2663(c)(18)(C), substituted “and (C) such” for “and (c) such” and “Secretary may find” for “secretary may find”.

1980—Subsec. (d). Pub. L. 96-611 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. N, title I, §602(g), Dec. 20, 2019, 133 Stat. 3123, provided that: “This section [enacting provisions set out as notes under this section and section 1305 of this title, and amending provisions set out as a note under section 1305 of this title] and the amendments made by this section shall take effect as if included in the Bipartisan Budget Act of 2018 [Pub. L. 115-123] on the date of the enactment of such Act [Feb. 9, 2018].”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by sections 50711(c), 50712(b), and 50713 of Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50741(a)(2) of Pub. L. 115-123 effective Oct. 1, 2019, with State option to delay effective date for not more than 2 years and subject to State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(c)(2) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

Pub. L. 110-275, title III, §302(b), July 15, 2008, 122 Stat. 2594, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply to calendar quarters beginning on or after that date.”

EFFECTIVE DATE OF 2006 AMENDMENT

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 2003 AMENDMENT

Amendment by Pub. L. 108-145 effective Oct. 1, 2003, see section 5 of Pub. L. 108-145, set out as a note under section 673b of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-133 effective Jan. 17, 2002, with delay permitted if State legislation is required,

see section 301 of Pub. L. 107-133, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 301(b), (c) of Pub. L. 105-200 effective as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997, Pub. L. 105-89, see section 301(d) of Pub. L. 105-200, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

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.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title II, §207(c), Oct. 31, 1994, 108 Stat. 4457, provided that: "The amendments and repeals made by this section [amending this section] shall apply to payments for calendar quarters beginning on or after October 1, 1993."

Pub. L. 103-432, title II, §210(b), Oct. 31, 1994, 108 Stat. 4460, provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to claims made on or after the date of the enactment of this Act [Oct. 31, 1994]."

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13713(a)(3), Aug. 10, 1993, 107 Stat. 657, provided that: "The amendments made by this subsection [amending this section] shall take effect on October 1, 1993."

Pub. L. 103-66, title XIII, §13713(b)(2), Aug. 10, 1993, 107 Stat. 657, as amended by Pub. L. 104-193, title V, §502, Aug. 22, 1996, 110 Stat. 2277, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to expenditures during fiscal years beginning on or after October 1, 1997."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5071(b), Nov. 5, 1990, 104 Stat. 1388-233, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VIII, §8001(b), Dec. 19, 1989, 103 Stat. 2452, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1989."

Pub. L. 101-239, title VIII, §8002(e), Dec. 19, 1989, 103 Stat. 2453, provided that: "The amendments made by subsections (a), (b) and (c) [amending this section and section 677 of this title] shall take effect October 1, 1989."

Pub. L. 101-239, title VIII, §8006(b), Dec. 19, 1989, 103 Stat. 2462, as amended by Pub. L. 103-66, title XIII, §13715, Aug. 10, 1993, 107 Stat. 657, provided that: "The amendments made by subsection (a) [amending this section] shall apply to expenditures made on or after October 1, 1989, and before October 1, 1992, and to expenditures made on or after October 1, 1993."

Pub. L. 101-239, title X, §10401(b), Dec. 19, 1989, 103 Stat. 2487, provided that: "The amendments made by subsection (a) [amending this section and former sections 620 and 627 of this title] shall take effect on October 1, 1989."

Pub. L. 101-239, title X, §10402(b), Dec. 19, 1989, 103 Stat. 2487, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1989."

Pub. L. 101-239, title X, §10403(c)(2), Dec. 19, 1989, 103 Stat. 2488, provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall take effect as if included in section 4 of Public Law 98-617 at the time such section became law [enacted Nov. 8, 1974]."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9132(b), Dec. 22, 1987, 101 Stat. 1330-314, provided that: "The amendments made by subsection (a) [amending this section] shall become effective October 1, 1987."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(c)(2) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

FAMILY FIRST PREVENTION SERVICES PROGRAM PANDEMIC FLEXIBILITY

Pub. L. 116-260, div. X, §5, Dec. 27, 2020, 134 Stat. 2413, provided that: "During the COVID-19 public health emergency period, each percentage specified in subparagraphs (A)(i) and (B) of section 474(a)(6) of the Social Security Act [42 U.S.C. 674(a)(6)] is deemed to be 100 percent."

[For definition of "COVID-19 public health emergency period" as used in section 5 of div. X of Pub. L. 116-260, set out above, see section 2 of div. X of Pub. L. 116-260, set out as a note under section 629h of this title.]

KINSHIP NAVIGATOR PROGRAMS PANDEMIC FLEXIBILITY

Pub. L. 116-260, div. X, §8, Dec. 27, 2020, 134 Stat. 2414, provided that:

"(a) INAPPLICABILITY OF MATCHING FUNDS REQUIREMENTS.—During the COVID-19 public health emergency period, the percentage specified in section 474(a)(7) of the Social Security Act [42 U.S.C. 674(a)(7)] is deemed to be 100 percent.

"(b) WAIVER OF EVIDENCE STANDARD.—During the COVID-19 public health emergency period, the requirement in section 474(a)(7) of the Social Security Act that the Secretary determine that a kinship navigator program be operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C) of such Act [42 U.S.C. 671(e)(4)(C)] shall have no force or effect, except that each State with such a program shall provide the Secretary with an assurance that the program will be, or is in the process of being, evaluated for the purpose of building an evidence base to later determine whether the program meets the criteria set forth in such section 471(e)(4)(C).

"(c) OTHER ALLOWABLE USES OF FUNDS.—A State may use funds provided to carry out a kinship navigator program—

"(1) for evaluations, independent systematic review, and related activities;

"(2) to provide short-term support to kinship families for direct services or assistance during the COVID-19 public health emergency period; and

"(3) to ensure that kinship caregivers have the information and resources to allow kinship families to function at their full potential, including—

"(A) ensuring that those who are at risk of contracting COVID-19 have access to information and resources for necessities, including food, safety supplies, and testing and treatment for COVID-19;

"(B) access to technology and technological supports needed for remote learning or other activities that must be carried out virtually due to the COVID-19 public health emergency;

"(C) health care and other assistance, including legal assistance and assistance with making alternative care plans for the children in their care if the caregivers were to become unable to continue caring for the children;

“(D) services to kinship families, including kinship families raising children outside of the foster care system; and

“(E) assistance to allow children to continue safely living with kin.

“(d) TERRITORY CAP EXEMPTION.—Section 1108(a)(1) of the Social Security Act [42 U.S.C. 1308(a)(1)] shall be applied without regard to any amount paid to a territory pursuant to this section that would not have been paid to the territory in the absence of this section.”

[For definitions of terms used in section 8 of div. X of Pub. L. 116-260, set out above, see section 2 of div. X of Pub. L. 116-260, set out as a note under section 629h of this title.]

EVIDENCE STANDARD TRANSITION

Pub. L. 116-94, div. N, title I, § 602(b), Dec. 20, 2019, 133 Stat. 3120, provided that:

“(1) TEMPORARY SUSPENSION OF REQUIREMENT THAT AT LEAST 50 PERCENT OF A STATE’S REIMBURSEMENT FOR PREVENTION AND FAMILY SERVICES AND PROGRAMS BE FOR PROGRAMS AND SERVICES THAT MEET THE WELL-SUPPORTED PRACTICE REQUIREMENT.—With respect to quarters in fiscal years 2020 and 2021, section 474(a)(6)(A) of the Social Security Act (42 U.S.C. 674(a)(6)(A)) shall be applied without regard to clause (ii) of such section.

“(2) SUPPORTED PRACTICES TEMPORARILY TREATED AS WELL-SUPPORTED PRACTICES.—With respect to quarters in fiscal years 2022 and 2023, practices that meet the criteria specified for supported practices in section 471(e)(4)(C) of the Social Security Act (42 U.S.C. 671(e)(4)(C)) shall be considered well-supported practices for purposes of section 474(a)(6)(A)(ii) of such Act (42 U.S.C. 674(a)(6)(A)(ii)).”

PHASE-IN

Pub. L. 110-351, title II, § 203(b), Oct. 7, 2008, 122 Stat. 3959, provided that: “With respect to an expenditure described in section 474(a)(3)(B) of the Social Security Act [42 U.S.C. 674(a)(3)(B)] by reason of an amendment made by subsection (a) of this section [amending this section], in lieu of the percentage set forth in such section 474(a)(3)(B), the percentage that shall apply is—

“(1) 55 percent, if the expenditure is made in fiscal year 2009;

“(2) 60 percent, if the expenditure is made in fiscal year 2010;

“(3) 65 percent, if the expenditure is made in fiscal year 2011; or

“(4) 70 percent, if the expenditure is made in fiscal year 2012.”

§ 675. Definitions

As used in this part or part B of this subchapter:

(1) The term “case plan” means a written document which meets the requirements of section 675a of this title and includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 672(a)(1)¹ of this title.

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the

child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan. With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child’s case planning team may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.

(C) The health and education records of the child, including the most recent information available regarding—

(i) the names and addresses of the child’s health and educational providers;

(ii) the child’s grade level performance;

(iii) the child’s school record;

(iv) a record of the child’s immunizations;

(v) the child’s known medical problems;

(vi) the child’s medications; and

(vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) For a child who has attained 14 years of age or over, a written description of the programs and services which will help such child prepare for the transition from foster care to a successful adulthood.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 673(d) of this title, a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

¹ See References in Text note below.

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 7801 of title 20) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a

child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(5) The term "case review system" means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,²

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward

²So in original. Subsequent subpars. enacted or amended with semicolons at end.

alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);

(C) with respect to each such child, (i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or only in the case of a child who has attained 16 years of age (in cases where the State agency has documented to the State court a compelling reason for determining, as of the date of the hearing, that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, subject to section 675a(a) of this title, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 14, the services needed to assist the child to make the transition from foster care to a successful adulthood; (ii) procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful

adulthood, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; and (iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 671(a)(15)(B)(ii) of this title are required to be made with respect to the child;

(F) a child shall be considered to have entered foster care on the earlier of—

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home;

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 677 of this title, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect; and

(I) each child in foster care under the responsibility of the State who has attained 14 years of age receives without cost a copy of any consumer report (as defined in section 1681a(d) of title 15) pertaining to the child each year until the child is discharged from care, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report, and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical

records, and a driver's license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005, and any official documentation necessary to prove that the child was previously in foster care.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term "legal guardianship" means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term "legal guardian" means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term "child" means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 673 of this title if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 673(d) of this title if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

(iv) who is—

(I) completing secondary education or a program leading to an equivalent credential;

(II) enrolled in an institution which provides post-secondary or vocational education;

(III) participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(9) The term "sex trafficking victim" means a victim of—

(A) sex trafficking (as defined in section 7102(10)¹ of title 22); or

(B) a severe form of trafficking in persons described in section 7102(9)(A)¹ of title 22.

(10)(A) The term "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental deci-

sions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

(B) For purposes of subparagraph (A), the term “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.

(11)(A) The term “age or developmentally-appropriate” means—

(i) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(ii) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(B) In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this part or part B shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school.

(12) The term “sibling” means an individual who satisfies at least one of the following conditions with respect to a child:

(A) The individual is considered by State law to be a sibling of the child.

(B) The individual would have been considered a sibling of the child under State law but for a termination or other disruption of parental rights, such as the death of a parent.

(13) The term “child who is a candidate for foster care” means, a child who is identified in a prevention plan under section 671(e)(4)(A) of this title as being at imminent risk of entering foster care (without regard to whether the child would be eligible for foster care maintenance payments under section 672 of this title or is or would be eligible for adoption assistance or kinship guardianship assistance payments under section 673 of this title) but who can remain safely in the child’s home or in a kinship placement as long as services or programs specified in section 671(e)(1) of this title that are necessary to prevent the entry of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.

(Aug. 14, 1935, ch. 531, title IV, §475, as added and amended Pub. L. 96-272, title I, §§101(a)(1),

102(a)(4), June 17, 1980, 94 Stat. 510, 514; Pub. L. 99-272, title XII, §§12305(b)(2), 12307(b), Apr. 7, 1986, 100 Stat. 293, 296; Pub. L. 99-514, title XVII, §1711(c)(6), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 100-203, title IX, §9133(a), Dec. 22, 1987, 101 Stat. 1330-314; Pub. L. 100-647, title VIII, §8104(e), Nov. 10, 1988, 102 Stat. 3797; Pub. L. 101-239, title VIII, §8007(a), (b), Dec. 19, 1989, 103 Stat. 2462; Pub. L. 103-432, title II, §§206(a), (b), 209(a), (b), 265(c), Oct. 31, 1994, 108 Stat. 4457, 4459, 4469; Pub. L. 105-89, title I, §§101(b), 102(2), 103(a), (b), 104, 107, title III, §302, Nov. 19, 1997, 111 Stat. 2117, 2118, 2120, 2121, 2128; Pub. L. 109-239, §§6-8(a), 11, 12, July 3, 2006, 120 Stat. 512-514; Pub. L. 109-288, §10, Sept. 28, 2006, 120 Stat. 1255; Pub. L. 110-351, title I, §101(c)(4), title II, §§201(a), 202, 204(a), Oct. 7, 2008, 122 Stat. 3952, 3957, 3959, 3960; Pub. L. 111-148, title II, §2955(a), Mar. 23, 2010, 124 Stat. 352; Pub. L. 112-34, title I, §106(a), (b), Sept. 30, 2011, 125 Stat. 377; Pub. L. 113-183, title I, §§101(b), 111(a)(1), 112(a)(1), (b)(2)(B), 113(a)-(c), 114(a), title II, §209(a)(2), Sept. 29, 2014, 128 Stat. 1921, 1923, 1926-1930, 1941; Pub. L. 114-95, title IX, §9215(qq)(1), Dec. 10, 2015, 129 Stat. 2189; Pub. L. 115-123, div. E, title VII, §§50711(b), 50753(e), Feb. 9, 2018, 132 Stat. 240, 266.)

Editorial Notes

REFERENCES IN TEXT

Section 672(a) of this title, referred to in par. (1)(A), was amended generally by Pub. L. 109-171, title VII, §7404(a), Feb. 8, 2006, 120 Stat. 151, and, as so amended, provisions relating to a voluntary placement agreement or judicial determination made with respect to a child, which formerly appeared in subsec. (a)(1), are contained in subsec. (a)(2)(A).

Section 202 of the REAL ID Act of 2005, referred to in par. (5)(I), is section 202 of title II of div. B of Pub. L. 109-13, which is set out as a note under section 30301 of title 49, Transportation.

Section 7102(9)(A) and (10) of title 22, referred to in par. (9), was redesignated section 7102(11)(A) and (12), respectively, of title 22 by Pub. L. 115-427, §2(1), Jan. 9, 2019, 132 Stat. 5503.

AMENDMENTS

2018—Par. (5)(I). Pub. L. 115-123, §50753(e), inserted “, and any official documentation necessary to prove that the child was previously in foster care” after “REAL ID Act of 2005”.

Par. (13). Pub. L. 115-123, §50711(b), added par. (13).

2015—Par. (1)(G)(ii)(I). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2014—Par. (1). Pub. L. 113-183, §112(b)(2)(B)(i), in introductory provisions, inserted “meets the requirements of section 675a of this title and” after “written document which”.

Par. (1)(B). Pub. L. 113-183, §113(a), inserted at end “With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child’s case planning team may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.”

Par. (1)(D). Pub. L. 113-183, §113(c), substituted “a successful adulthood” for “independent living”.

Pub. L. 113-183, §113(b)(1), substituted “For a child who has attained 14 years of age” for “Where appropriate, for a child age 16”.

Par. (5)(B). Pub. L. 113-183, §112(b)(2)(B)(ii)(I), inserted at end “and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child’s foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);”.

Par. (5)(C)(i). Pub. L. 113-183, §113(c), substituted “a successful adulthood” for “independent living”.

Pub. L. 113-183, §113(b)(2)(A)(i), substituted “14” for “16”.

Pub. L. 113-183, §112(b)(2)(B)(ii)(II), inserted “, as of the date of the hearing,” after “compelling reason for determining” and “subject to section 675a(a) of this title,” after “another planned permanent living arrangement,”.

Pub. L. 113-183, §112(a)(1), inserted “only in the case of a child who has attained 16 years of age” before “(in cases where”.

Par. (5)(C)(iii). Pub. L. 113-183, §113(c), substituted “a successful adulthood” for “independent living”.

Par. (5)(C)(iv). Pub. L. 113-183, §113(b)(2)(A)(ii), (iii), added cl. (iv).

Par. (5)(I). Pub. L. 113-183, §114(a), substituted “receives assistance” for “and receives assistance” and inserted before period at end “, and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child’s medical records, and a driver’s license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005”.

Pub. L. 113-183, §113(b)(2)(B), substituted “14” for “16”.

Par. (9). Pub. L. 113-183, §101(b), added par. (9).

Pars. (10), (11). Pub. L. 113-183, §111(a)(1), added pars. (10) and (11).

Par. (12). Pub. L. 113-183, §209(a)(2), added par. (12).

2011—Par. (1)(G)(i). Pub. L. 112-34, §106(a)(1), substituted “each placement” for “the placement”.

Par. (1)(G)(ii)(I). Pub. L. 112-34, §106(a)(2), inserted “each” before “placement”.

Par. (5)(I). Pub. L. 112-34, §106(b), added subpar. (I).

2010—Par. (5)(H). Pub. L. 111-148 inserted “includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law,” after “employment services,”.

2008—Par. (1)(C)(iv) to (viii). Pub. L. 110-351, §204(a)(1)(A), redesignated cls. (v) to (viii) as (iv) to (vii), respectively, and struck out former cl. (iv) which read as follows: “assurances that the child’s placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;”.

Par. (1)(F). Pub. L. 110-351, §101(c)(4), added subpar. (F).

Par. (1)(G). Pub. L. 110-351, §204(a)(1)(B), added subpar. (G).

Par. (4)(A). Pub. L. 110-351, §204(a)(2), in first sentence, substituted “reasonable” for “and reasonable” and inserted “, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement” before period at end.

Par. (5)(H). Pub. L. 110-351, §202, added subpar. (H).

Par. (8). Pub. L. 110-351, §201(a), added par. (8).

2006—Par. (1)(C). Pub. L. 109-239, §7(1), in introductory provisions, substituted “The health” for “To the extent available and accessible, the health” and inserted “the most recent information available regarding” after “including”.

Par. (1)(E). Pub. L. 109-239, §11, which directed amendment of subpar. (E) by inserting “to facilitate orderly and timely in-State and interstate placements” before the period, was executed by making the insertion before period at end of last sentence to reflect the probable intent of Congress.

Par. (5)(A)(ii). Pub. L. 109-239, §6, substituted “6 months” for “12 months” and “of the State in which the child has been placed, or of a private agency under contract with either such State” for “or of the State in which the child has been placed”.

Par. (5)(C). Pub. L. 109-288 inserted “(i)” after “with respect to each such child,” substituted “(ii) procedural safeguards shall” for “and procedural safeguards shall also”, and added cl. (iii) at end.

Pub. L. 109-239, §12, inserted “, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options,” after “living arrangement” and “the hearing shall determine” after “described in subparagraph (A)(ii),”.

Par. (5)(D). Pub. L. 109-239, §7(2), inserted “a copy of the record is” before “supplied to the foster parent” and “, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law” before semicolon at end.

Par. (5)(G). Pub. L. 109-239, §8(a), substituted “a right” for “an opportunity”, “proceeding” for “review or hearing” in two places, and “and right” for “and opportunity”.

1997—Par. (1). Pub. L. 105-89, §107(1)(A), (B), struck out “the case plan must also include” before “a written description” in concluding provisions and redesignated those provisions as subpar. (D) of par. (1).

Par. (1)(A). Pub. L. 105-89, §102(2)(A)(i), inserted “safety and” before “appropriateness of the placement”.

Par. (1)(B). Pub. L. 105-89, §102(2)(A)(ii), inserted “safe and” after “child receives” and “safe” after “return of the child to his own”.

Par. (1)(D). Pub. L. 105-89, §107(1)(B), redesignated concluding provisions of par. (1) as subpar. (D) of par. (1) and realigned margins.

Par. (1)(E). Pub. L. 105-89, §107(2), added subpar. (E).

Par. (5)(A). Pub. L. 105-89, §102(2)(B)(i), inserted “a safe setting that is” after “placement in” in introductory provisions.

Par. (5)(B). Pub. L. 105-89, §102(2)(B)(ii), inserted “the safety of the child,” after “determine” and “and safely maintained in” before “the home or placed for adoption”.

Par. (5)(C). Pub. L. 105-89, §302, substituted “permanency hearing” for “dispositional hearing” and “no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F))” for “no later than eighteen months after the original placement”, and which directed the substitution of “permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return

home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement” for “future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be continued in foster care on a permanent or long term basis)”, was executed by making the substitution for text which contained the words “long-term” rather than “long term” to reflect the probable intent of Congress.

Par. (5)(E). Pub. L. 105-89, §103(a), added subpar. (E).
 Par. (5)(F). Pub. L. 105-89, §103(b), added subpar. (F).
 Par. (5)(G). Pub. L. 105-89, §104, added subpar. (G).
 Par. (7). Pub. L. 105-89, §101(b), added par. (7).
 1994—Par. (5)(A). Pub. L. 103-432, §209(a), inserted “which—” after “needs of the child,” and added cls. (i) and (ii).

Pub. L. 103-432, §206(a), inserted “and most appropriate” after “(most family like)”.

Par. (5)(C). Pub. L. 103-432, §209(b), inserted “and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child,” after “permanent or long-term basis”).

Pub. L. 103-432, §206(b), substituted “(and not less frequently than every 12 months)” for “(and periodically)”.

Par. (5)(D). Pub. L. 103-432, §265(c), realigned margins.
 1989—Par. (1). Pub. L. 101-239, §8007(a), inserted “(A)” before “A description”, substituted “section 672(a)(1) of this title. (B) A plan” for “section 672(a)(1) of this title; and a plan”, realigned margins of subpars. (A) and (B), added subpar. (C), and set the last sentence flush with the left margin of par. (1).

Par. (5)(D). Pub. L. 101-239, §8007(b), added subpar. (D).

1988—Par. (5)(C). Pub. L. 100-647 inserted “and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living” after “long-term basis”).

1987—Par. (4). Pub. L. 100-203 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Par. (1). Pub. L. 99-272, §12307(b), inserted at end “Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.”

Par. (3). Pub. L. 99-514 added cl. (A) and struck out former cl. (A) which read as follows: “specifies the amounts of any adoption assistance payments and any other services and assistance which are to be provided as part of such agreement, and”.

Pub. L. 99-272, §12305(b)(2), substituted in cl. (A) “any adoption assistance payments and any other services and assistance” for “the adoption assistance payments and any additional services and assistance”.

1980—Par. (1). Pub. L. 96-272, §102(a)(4), inserted reference to voluntary placement agreements.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 50711(b) of Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 111(a)(1) of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014,

with delay permitted if State legislation is required, see section 111(d) of Pub. L. 113-183, set out as a note under section 671 of this title.

Amendment by section 112(a)(1) of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, and in the case of children in foster care under the responsibility of an Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of a State), not applicable until the date that is 3 years after Sept. 29, 2014, see section 112(a)(3), (c) of Pub. L. 113-183, set out as notes under section 622 of this title.

Amendment by section 112(b)(2)(B) of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 112(c) of Pub. L. 113-183, set out as a note under section 622 of this title.

Pub. L. 113-183, title I, §113(f), Sept. 29, 2014, 128 Stat. 1929, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 675a of this title] shall take effect on the date that is 1 year after the date of the enactment of this Act [Sept. 29, 2014].

“(2) 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 developed pursuant to part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act [Sept. 29, 2014]. 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.”

Pub. L. 113-183, title I, §114(b), Sept. 29, 2014, 128 Stat. 1930, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect 1 year after the date of enactment of this Act [Sept. 29, 2014].

“(2) 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 developed pursuant to part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act [Sept. 29, 2014]. 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 section 209(a)(2) of Pub. L. 113-183 effective Sept. 29, 2014, with delay permitted if State legislation is required, see section 210(e) of Pub. L. 113-183, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 effective Oct. 1, 2010, see section 2955(d) of Pub. L. 111-148, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(a) of Pub. L. 110-351 effective Oct. 1, 2010, see section 201(d) of Pub. L. 110-351, set out as a note under section 672 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

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

EFFECTIVE DATE OF 1997 AMENDMENT

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.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title II, §206(c), Oct. 31, 1994, 108 Stat. 4457, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1995."

Pub. L. 103-432, title II, §209(d), Oct. 31, 1994, 108 Stat. 4459, provided that: "The amendments made by this section [amending this section and section 679 of this title] shall be effective with respect to fiscal years beginning on or after October 1, 1995."

Amendment by section 265(c) of Pub. L. 103-432 effective as if included in the provision of Pub. L. 101-239 to which the amendment relates, at the time the provision became law, see section 265(d) of Pub. L. 103-432, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VIII, §8007(c), Dec. 19, 1989, 103 Stat. 2462, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on April 1, 1990."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective Oct. 1, 1988, see section 8104(g)(1) of Pub. L. 100-647, set out as a note under section 677 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Apr. 1, 1988, see section 9133(c) of Pub. L. 100-203, set out as a note under section 672 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

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.

Amendment by section 12305(b)(2) of Pub. L. 99-272 applicable to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after Apr. 7, 1986, see section 12305(c) of Pub. L. 99-272, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-272, title I, §101(a)(4)(A), June 17, 1980, 94 Stat. 512, provided that: "Clause (B) of the first sen-

tence of section 475(3) of the Social Security Act [42 U.S.C. 675(3)(B)] (as added by subsection (a) of this section) shall be effective with respect to adoption assistance agreements entered into on or after October 1, 1983."

Amendment by section 102(a)(4) of Pub. L. 96-272 effective only with respect to expenditures made after Sept. 30, 1979, see section 102(c) of Pub. L. 96-272, as amended, set out as a note under section 672 of this title.

CONSTRUCTION

For construction of amendment by section 209(a)(2) of Pub. L. 113-183, see section 209(b) of Pub. L. 113-183, set out as a note under section 671 of this title.

Pub. L. 105-89, title I, §103(d), Nov. 19, 1997, 111 Stat. 2119, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note below] or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experienced multiple foster care placements of varying durations."

TRANSITION RULES; NEW AND CURRENT FOSTER CHILDREN

Pub. L. 105-89, title I, §103(c), Nov. 19, 1997, 111 Stat. 2119, provided that:

"(1) NEW FOSTER CHILDREN.—In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act [42 U.S.C. 675(5)(F)]) under the responsibility of a State after the date of the enactment of this Act [Nov. 19, 1997]—

"(A) if the State comes into compliance with the amendments made by subsection (a) of this section [amending this section] before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act [42 U.S.C. 675(5)(E)] with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

"(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

"(2) CURRENT FOSTER CHILDREN.—In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall—

"(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than ⅓ of such children as the State shall select, giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]) is adoption and children who have been in foster care for the greatest length of time;

"(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than ⅔ of such children as the State shall select; and

"(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

"(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS.—For purposes of this subsection, 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.

“(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS.—For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act [42 U.S.C. 671(a)].”

§ 675a. Additional case plan and case review system requirements

(a) Requirements for another planned permanent living arrangement

In the case of any child for whom another planned permanent living arrangement is the permanency plan determined for the child under section 675(5)(C) of this title, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1) Documentation of intensive, ongoing, unsuccessful efforts for family placement

At each permanency hearing held with respect to the child, the State agency documents the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children.

(2) Redetermination of appropriateness of placement at each permanency hearing

The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:

(A) Ask the child about the desired permanency outcome for the child.

(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to—

- (i) return home;
- (ii) be placed for adoption;
- (iii) be placed with a legal guardian; or
- (iv) be placed with a fit and willing relative.

(3) Demonstration of support for engaging in age or developmentally-appropriate activities and social events

At each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure that—

(A) the child’s foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(b) List of rights

The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 675(5)(I) of this title in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(c) Assessment, documentation, and judicial determination requirements for placement in a qualified residential treatment program

In the case of any child who is placed in a qualified residential treatment program (as defined in section 672(k)(4) of this title), the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1)(A) Within 30 days of the start of each placement in such a setting, a qualified individual (as defined in subparagraph (D)) shall—

(i) assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;

(ii) determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting from among the settings specified in section 672(k)(2) of this title would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(iii) develop a list of child-specific short- and long-term mental and behavioral health goals.

(B)(i) The State shall assemble a family and permanency team for the child in accordance with the requirements of clauses (ii) and (iii). The qualified individual conducting the assessment required under subparagraph (A) shall work in conjunction with the family of, and permanency team for, the child while conducting and making the assessment.

(ii) The family and permanency team shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the family and permanency team shall include the members of the permanency planning team for the child that are selected by the child in accordance with section 675(5)(C)(iv) of this title.

(iii) The State shall document in the child’s case plan—

(I) the reasonable and good faith effort of the State to identify and include all the in-

dividuals described in clause (ii) on the child's family and permanency team;

(II) all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;

(III) evidence that meetings of the family and permanency team, including meetings relating to the assessment required under subparagraph (A), are held at a time and place convenient for family;

(IV) if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;

(V) evidence that the assessment required under subparagraph (A) is determined in conjunction with the family and permanency team;

(VI) the placement preferences of the family and permanency team relative to the assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest; and

(VII) if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment under subparagraph (A), the reasons why the preferences of the team and of the child were not recommended.

(C) In the case of a child who the qualified individual conducting the assessment under subparagraph (A) determines should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual also shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

(D)(i) Subject to clause (ii), in this subsection, the term "qualified individual" means a trained professional or licensed clinician who is not an employee of the State agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State.

(ii) The Secretary may approve a request of a State to waive any requirement in clause (i) upon a submission by the State, in accordance with criteria established by the Secretary, that certifies that the trained professionals or licensed clinicians with responsibility for performing the assessments described in subparagraph (A) shall maintain objectivity with respect to determining the most effective and appropriate placement for a child.

(2) Within 60 days of the start of each placement in a qualified residential treatment program, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, shall—

(A) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment under paragraph (1);

(B) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(C) approve or disapprove the placement.

(3) The written documentation made under paragraph (1)(C) and documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under paragraph (2) shall be included in and made part of the case plan for the child.

(4) As long as a child remains placed in a qualified residential treatment program, the State agency shall submit evidence at each status review and each permanency hearing held with respect to the child—

(A) demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

(B) documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(C) documenting the efforts made by the State agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(5) In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 non-consecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State agency shall submit to the Secretary—

(A) the most recent versions of the evidence and documentation specified in paragraph (4); and

(B) the signed approval of the head of the State agency for the continued placement of the child in that setting.

(Aug. 14, 1935, ch. 531, title IV, § 475A, as added and amended Pub. L. 113-183, title I, §§ 112(b)(1), 113(d), Sept. 29, 2014, 128 Stat. 1926, 1929; Pub. L. 115-123, div. E, title VII, § 50742, Feb. 9, 2018, 132 Stat. 257.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-123 added subsec. (c).
2014—Subsec. (b). Pub. L. 113-183, § 113(d), added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-123 effective Oct. 1, 2019, with State option to delay effective date for not more than 2 years and subject to State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 113(d) of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 113(f) of Pub. L. 113-183, set out as a note under section 675 of this title.

EFFECTIVE DATE

Section effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 112(c) of Pub. L. 113-183, set out as an Effective Date of 2014 Amendment note under section 622 of this title.

§ 676. Administration

(a) Technical assistance to States

The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this subchapter and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Data collection and evaluation

Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) Technical assistance and implementation services for tribal programs

(1) Authority

The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) Assistance provided

(A) In general

The technical assistance and implementation services shall be to—

(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organiza-

tions with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 679c of this title; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 622(b)(9), 671(a)(32), or 677(b)(3)(G) of this title; and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to the Secretary a plan under section 671 of this title to implement a program under this part as authorized by section 679c of this title, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 671 of this title to carry out a program under section 679c of this title, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 675(5) of this title, or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) Grant condition

(i) In general

As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 671 of this title to carry out a program under section 679c of this title by the end of the 24-month period described in that subparagraph.

(ii) Exception

The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) Implementation authority

The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly

or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) Appropriation

There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

(d) Technical assistance and best practices, clearinghouse, data collection, and evaluations relating to prevention services and programs

(1) Technical assistance and best practices

The Secretary shall provide to States and, as applicable, to Indian tribes, tribal organizations, and tribal consortia, technical assistance regarding the provision of services and programs described in section 671(e)(1) of this title and shall disseminate best practices with respect to the provision of the services and programs, including how to plan and implement a well-designed and rigorous evaluation of a promising, supported, or well-supported practice.

(2) Clearinghouse of promising, supported, and well-supported practices

The Secretary shall, directly or through grants, contracts, or interagency agreements, evaluate research on the practices specified in clauses (iii), (iv), and (v), respectively, of section 671(e)(4)(C) of this title, and programs that meet the requirements described in section 627(a)(1) of this title, including culturally specific, or location- or population-based adaptations of the practices, to identify and establish a public clearinghouse of the practices that satisfy each category described by such clauses. In addition, the clearinghouse shall include information on the specific outcomes associated with each practice, including whether the practice has been shown to prevent child abuse and neglect and reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.

(3) Data collection and evaluations

The Secretary, directly or through grants, contracts, or interagency agreements, may collect data and conduct evaluations with respect to the provision of services and programs described in section 671(e)(1) of this title for purposes of assessing the extent to which the provision of the services and programs—

- (A) reduces the likelihood of foster care placement;
- (B) increases use of kinship care arrangements; or
- (C) improves child well-being.

(4) Reports to Congress

(A) In general

The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House

of Representatives periodic reports based on the provision of services and programs described in section 671(e)(1) of this title and the activities carried out under this subsection.

(B) Public availability

The Secretary shall make the reports to Congress submitted under this paragraph publicly available.

(5) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary \$1,000,000 for fiscal year 2018 and each fiscal year thereafter to carry out this subsection.

(e) Evaluation of State procedures and protocols to prevent inappropriate diagnoses of mental illness or other conditions

The Secretary shall conduct an evaluation of the procedures and protocols established by States in accordance with the requirements of section 622(b)(15)(A)(vii) of this title. The evaluation shall analyze the extent to which States comply with and enforce the procedures and protocols and the effectiveness of various State procedures and protocols and shall identify best practices. Not later than January 1, 2020, the Secretary shall submit a report on the results of the evaluation to Congress.

(Aug. 14, 1935, ch. 531, title IV, §476, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 511; amended Pub. L. 110-351, title III, §302, Oct. 7, 2008, 122 Stat. 3972; Pub. L. 115-123, div. E, title VII, §§50711(d), 50743(b), Feb. 9, 2018, 132 Stat. 242, 260.)

Editorial Notes

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-123, § 50711(d), added subsec. (d).

Subsec. (e). Pub. L. 115-123, § 50743(b), added subsec. (e).

2008—Subsec. (c). Pub. L. 110-351 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 50711(d) of Pub. L. 115-123 effective Feb. 9, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

Amendment by section 50743(b) of Pub. L. 115-123 effective as if enacted on Jan. 1, 2018, subject to transition rule and State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after such date, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

§ 677. John H. Chafee Foster Care Program for Successful Transition to Adulthood

(a) Purpose

The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

(1) to support all youth who have experienced foster care at age 14 or older in their transition to adulthood through transitional services such as assistance in obtaining a high school diploma and post-secondary education, career exploration, vocational training, job placement and retention, training and opportunities to practice daily living skills (such as financial literacy training and driving instruction), substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children who have experienced foster care at age 14 or older achieve meaningful, permanent connections with a caring adult;

(3) to help children who have experienced foster care at age 14 or older engage in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families experience;

(4) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age (or 23 years of age, in the case of a State with a certification under subsection (b)(3)(A)(ii) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with such subsection) to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;

(5) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care;

(6) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption; and

(7) to ensure children who are likely to remain in foster care until 18 years of age have regular, ongoing opportunities to engage in age or developmentally-appropriate activities as defined in section 675(11) of this title.

(b) Applications

(1) In general

A State may apply for funds from its allotment under subsection (c) for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) State plan

A plan meets the requirements of this paragraph if the plan specifies which State agency

or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping youth in foster care achieve independence.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) Certifications

The certifications required by this paragraph with respect to a plan are the following:

(A)(i) A certification by the chief executive officer of the State that the State will provide assistance and services to youths who have aged out of foster care and have not attained 21 years of age.

(ii) If the State has elected under section 675(8)(B) of this title to extend eligibility for foster care to all children who have not attained 21 years of age, or if the Secretary determines that the State agency responsible for administering the State plans under this part and part B uses State funds or any other funds not provided under this part to provide services and assistance for youths who have aged out of foster care that are comparable to the services and assistance the youths would receive if the State had made such an election, the certification required under clause (i) may provide that the State will provide assistance and services to youths who have aged out of foster care and have not attained 23 years of age.

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a State with a certification under subparagraph (A)(i) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with subparagraph (A)(ii)).

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room or board for any child who has not attained 18 years of age.

(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and

adoption assistance to provide training including training on youth development to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting youth preparing for a successful transition to adulthood and making a permanent connection with a caring adult.

(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974 [34 U.S.C. 11221 et seq.]), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.

(H) A certification by the chief executive officer of the State that the State will ensure that youth participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the youth accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State edu-

cational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use—

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5); and

(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program.

(K) A certification by the chief executive officer of the State that the State will ensure that a youth participating in the program under this section are¹ provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the youth if the youth becomes unable to participate in such decisions and the youth does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the youth wants to do so.

(4) Approval

The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) Authority to implement certain amendments; notification

A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) Availability

The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) Allotments to States

(1) General program allotment

From the amount specified in subsection (h)(1) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the ratio to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2).

¹ So in original. Probably should be "is".

(2) Hold harmless provision**(A) In general**

The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) Ratable reduction of certain allotments

In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) Voucher program allotment

From the amount, if any, appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) State foster care ratio

In this subsection, the term "State foster care ratio" means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year.

(d) Use of funds**(1) In general**

A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) No supplantation of other funds available for same general purposes

The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) Two-year availability of funds

Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year.

(4) Reallocation of unused funds

If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary or does not expend allocated funds within the time period specified under subsection (d)(3), the funds to

which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary.

(5) Redistribution of unexpended amounts**(A) Availability of amounts**

To the extent that amounts paid to States under this section in a fiscal year remain unexpended by the States at the end of the succeeding fiscal year, the Secretary may make the amounts available for redistribution in the second succeeding fiscal year among the States that apply for additional funds under this section for that second succeeding fiscal year.

(B) Redistribution**(i) In general**

The Secretary shall redistribute the amounts made available under subparagraph (A) for a fiscal year among eligible applicant States. In this subparagraph, the term "eligible applicant State" means a State that has applied for additional funds for the fiscal year under subparagraph (A) if the Secretary determines that the State will use the funds for the purpose for which originally allotted under this section.

(ii) Amount to be redistributed

The amount to be redistributed to each eligible applicant State shall be the amount so made available multiplied by the State foster care ratio, (as defined in subsection (c)(4), except that, in such subsection, "all eligible applicant States (as defined in subsection (d)(5)(B)(i))" shall be substituted for "all States").

(iii) Treatment of redistributed amount

Any amount made available to a State under this paragraph shall be regarded as part of the allotment of the State under this section for the fiscal year in which the redistribution is made.

(C) Tribes

For purposes of this paragraph, the term "State" includes an Indian tribe, tribal organization, or tribal consortium that receives an allotment under this section.

(e) Penalties**(1) Use of grant in violation of this part**

If the Secretary is made aware, by an audit conducted under chapter 75 of title 31 or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) Failure to comply with data reporting requirement

The Secretary shall assess a penalty against a State that fails during a fiscal year to com-

ply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) Penalties based on degree of noncompliance

The Secretary shall assess penalties under this subsection based on the degree of non-compliance.

(f) Data collection and performance measurement

(1) In general

The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital child-birth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after December 14, 1999.

(2) Report to Congress

Not later than October 1, 2019, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the National Youth in Transition Database and any other databases in which States report outcome measures relating to children in foster care and children who have aged out of foster care or left foster care for kinship guardianship or adoption. The report shall include the following:

(A) A description of the reasons for entry into foster care and of the foster care experiences, such as length of stay, number of placement settings, case goal, and discharge reason of 17-year-olds who are surveyed by the National Youth in Transition Database and an analysis of the comparison of that description with the reasons for entry and foster care experiences of children of other ages who exit from foster care before attaining age 17.

(B) A description of the characteristics of the individuals who report poor outcomes at ages 19 and 21 to the National Youth in Transition Database.

(C) Benchmarks for determining what constitutes a poor outcome for youth who re-

main in or have exited from foster care and plans the executive branch will take to incorporate these benchmarks in efforts to evaluate child welfare agency performance in providing services to children transitioning from foster care.

(D) An analysis of the association between types of placement, number of overall placements, time spent in foster care, and other factors, and outcomes at ages 19 and 21.

(E) An analysis of the differences in outcomes for children in and formerly in foster care at age 19 and 21 among States.

(g) Evaluations

(1) In general

The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) Funding of evaluations

The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) Limitations on authorization of appropriations

To carry out this section and for payments to States under section 674(a)(4) of this title, there are authorized to be appropriated to the Secretary for each fiscal year—

(1) \$140,000,000 or, beginning in fiscal year 2020, \$143,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.

(i) Educational and training vouchers

The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section who have attained 14 years of age.

(2) For purposes of the voucher program, youths who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program to remain eligible until they attain 26 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program, but in no event may a youth participate in the program for more than 5 years (whether or not consecutive).

(4) The voucher or vouchers provided for an individual under this section—

(A) may be available for the cost of attendance at an institution of higher education, as defined in section 1002 of title 20; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 1087*ll* of title 20.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 1087*ll* of title 20, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.

(j) Authority for an Indian tribe, tribal organization, or tribal consortium to receive an allotment

(1) In general

An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 679c of this title, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

(2) Application

A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which a portion of an allotment under subsection (c) would be redirected to the tribe, organization, or consortium; and

(C) contains an explanation of the results of such consultation, particularly with respect to—

(i) determining the eligibility for benefits and services of Indian children to be served under the programs to be carried out under the plan; and

(ii) the process for consulting with the State in order to ensure the continuity of

benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

(3) Payments

The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 674(a)(4) of this title (and, where requested, and if funds are appropriated, section 674(e) of this title) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

(4) Allotment

From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under subsection (c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

(5) Tribal foster care ratio

For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

(B) the sum of—

(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or under supervision of the State) that have a plan approved under this subsection.

(Aug. 14, 1935, ch. 531, title IV, §477, as added Pub. L. 99-272, title XII, §12307(a), Apr. 7, 1986, 100 Stat. 294; amended Pub. L. 100-647, title VIII, §8104(a)-(d), (f), Nov. 10, 1988, 102 Stat. 3796, 3797; Pub. L. 101-239, title VIII, §8002(a), (b), Dec. 19,

1989, 103 Stat. 2452; Pub. L. 101-508, title V, § 5073(a), Nov. 5, 1990, 104 Stat. 1388-233; Pub. L. 103-66, title XIII, § 13714(a), Aug. 10, 1993, 107 Stat. 657; Pub. L. 105-89, title III, § 304, Nov. 19, 1997, 111 Stat. 2130; Pub. L. 106-169, title I, § 101(b), Dec. 14, 1999, 113 Stat. 1824; Pub. L. 107-133, title II, §§ 201(a)-(e), 202(a), Jan. 17, 2002, 115 Stat. 2422, 2423, 2425; Pub. L. 110-351, title I, § 101(e), title III, § 301(b), (c)(1)(B), Oct. 7, 2008, 122 Stat. 3953, 3967, 3969; Pub. L. 111-148, title II, § 2955(b), Mar. 23, 2010, 124 Stat. 352; Pub. L. 113-183, title I, § 111(c), Sept. 29, 2014, 128 Stat. 1925; Pub. L. 115-123, div. E, title VII, § 50753(a)-(d), Feb. 9, 2018, 132 Stat. 263-265.)

Editorial Notes

REFERENCES IN TEXT

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (b)(3)(F), is Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109. Part B of title III of the Act is classified generally to part B (§ 11221 et seq.) of subchapter III of chapter 111 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note under section 10101 of Title 34 and Tables.

CODIFICATION

December 14, 1999, referred to in subsec. (f), was in the original “the date of the enactment of this section” which was translated as meaning the date of enactment of Pub. L. 106-169, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2018—Pub. L. 115-123, § 50753(d)(1), substituted “Program for Successful Transition to Adulthood” for “Independence Program” in section catchline.

Subsec. (a)(1). Pub. L. 115-123, § 50753(d)(2)(A), substituted “support all youth who have experienced foster care at age 14 or older in their transition to adulthood through transitional services such as assistance in obtaining a high school diploma and post-secondary education, career exploration, vocational training, job placement and retention, training and opportunities to practice daily living skills (such as financial literacy training and driving instruction)” for “identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills”.

Subsec. (a)(2). Pub. L. 115-123, § 50753(d)(2)(B), substituted “who have experienced foster care at age 14 or older achieve meaningful, permanent connections with a caring adult” for “who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment”.

Subsec. (a)(3). Pub. L. 115-123, § 50753(d)(2)(C), substituted “who have experienced foster care at age 14 or older engage in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families experience” for “who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions”.

Subsec. (a)(4). Pub. L. 115-123, § 50753(d)(2)(D), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults;”.

Subsec. (a)(5). Pub. L. 115-123, § 50753(d)(2)(D), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 115-123, § 50753(a)(1), inserted “(or 23 years of age, in the case of a State with a certification under

subsection (b)(3)(A)(ii) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with such subsection)” after “21 years of age”.

Subsec. (a)(6) to (8). Pub. L. 115-123, § 50753(d)(2)(D), redesignated pars. (6) to (8) as (5) to (7), respectively.

Subsec. (b)(2)(D). Pub. L. 115-123, § 50753(d)(3)(A), substituted “youth” for “adolescents”.

Subsec. (b)(3)(A). Pub. L. 115-123, § 50753(a)(2), designated existing provisions as cl. (i), substituted “youths who have aged out of foster care and have not attained 21 years of age.” for “children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.”, and added cl. (ii).

Subsec. (b)(3)(B). Pub. L. 115-123, § 50753(a)(3), substituted “youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a State with a certification under subparagraph (A)(i) to provide assistance and services to youths who have aged out of foster care and have not attained such age, in accordance with subparagraph (A)(ii)).” for “children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.”

Subsec. (b)(3)(D). Pub. L. 115-123, § 50753(d)(3)(B)(i), inserted “including training on youth development” after “to provide training” and substituted “youth preparing for a successful transition to adulthood and making a permanent connection with a caring adult.” for “adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.”

Subsec. (b)(3)(H). Pub. L. 115-123, § 50753(d)(3)(B)(ii), substituted “youth” for “adolescents” in two places.

Subsec. (b)(3)(K). Pub. L. 115-123, § 50753(d)(3)(B)(iii), substituted “a youth” for “an adolescent” and, wherever appearing, “the youth” for “the adolescent”.

Subsec. (d)(4). Pub. L. 115-123, § 50753(b)(1), inserted “or does not expend allocated funds within the time period specified under subsection (d)(3)” after “provided by the Secretary”.

Subsec. (d)(5). Pub. L. 115-123, § 50753(b)(2), added par. (5).

Subsec. (f)(2). Pub. L. 115-123, § 50753(d)(4), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “Within 12 months after December 14, 1999, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1) and a proposal to impose penalties consistent with paragraph (e)(2) on States that do not report data.”

Subsec. (i)(1). Pub. L. 115-123, § 50753(c)(2), inserted “who have attained 14 years of age” before period at end.

Subsec. (i)(3). Pub. L. 115-123, § 50753(c)(1), substituted “to remain eligible until they attain 26” for “on the date they attain 21 years of age to remain eligible until they attain 23” and inserted before period at end “, but in no event may a youth participate in the program for more than 5 years (whether or not consecutive)”.

2014—Subsec. (a)(8). Pub. L. 113-183, § 111(c)(1), added par. (8).

Subsec. (h)(1). Pub. L. 113-183, § 111(c)(2), inserted “or, beginning in fiscal year 2020, \$143,000,000” after “\$140,000,000”.

2010—Subsec. (b)(3)(K). Pub. L. 111-148 added subpar. (K).

2008—Subsec. (a)(7). Pub. L. 110-351, § 101(e)(1), added par. (7).

Subsec. (b)(3)(G). Pub. L. 110-351, § 301(c)(1)(B), substituted “tribes; that” for “tribes; and that” and inserted “; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State

to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight” before period at end.

Subsec. (i)(2). Pub. L. 110-351, §101(e)(2), substituted “who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care” for “adopted from foster care after attaining age 16”.

Subsec. (j). Pub. L. 110-351, §301(b), added subsec. (j). 2002—Subsec. (a)(6). Pub. L. 107-133, §201(a), added par. (6).

Subsec. (b)(3)(J). Pub. L. 107-133, §201(c), added subpar. (J).

Subsec. (c)(1). Pub. L. 107-133, §201(e)(1), in heading substituted “General program allotment” for “In general” and in text substituted “From the amount specified in subsection (h)(1)” for “From the amount specified in subsection (h)”, “which bears the ratio” for “which bears the same ratio”, and “equal to the State foster care ratio, as adjusted in accordance with paragraph (2).” for “as the number of children in foster care under a program of the State in the most recent fiscal year for which such information is available bears to the total number of children in foster care in all States for such most recent fiscal year, as adjusted in accordance with paragraph (2).”

Subsec. (c)(3), (4). Pub. L. 107-133, §201(e)(2), added pars. (3) and (4).

Subsec. (d)(4). Pub. L. 107-133, §202(a), added par. (4). Subsec. (h). Pub. L. 107-133, §201(d), substituted “there are authorized to be appropriated to the Secretary for each fiscal year—” and pars. (1) and (2) for “there are authorized to be appropriated to the Secretary \$140,000,000 for each fiscal year.”

Subsec. (i). Pub. L. 107-133, §201(b), added subsec. (i). 1999—Pub. L. 106-169 amended section generally, substituting present provisions for provisions which had authorized payments to States and localities for establishment of programs designed to assist children who have attained age 16 in making transition from foster care to independent living, and set forth provisions relating to administration of programs, assurances, types of programs, amounts of entitlement, and provisions requiring annual report and promulgation of regulations.

1997—Subsec. (a)(2)(A). Pub. L. 105-89 inserted before comma at end “(including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part)”.

1993—Subsec. (a)(1). Pub. L. 103-66, §13714(a)(1), struck out at end “Such payments shall be made only for the fiscal years 1987 through 1992.”

Subsec. (c). Pub. L. 103-66, §13714(a)(2), substituted “any succeeding fiscal year” for “any of the fiscal years 1988 through 1992”.

Subsec. (e)(1)(A). Pub. L. 103-66, §13714(a)(3), substituted “fiscal year 1987 and any succeeding fiscal year” for “each of the fiscal years 1987 through 1992”.

Subsec. (e)(1)(B). Pub. L. 103-66, §13714(a)(4), substituted “fiscal year 1991 and any succeeding fiscal year” for “fiscal years 1991 and 1992”.

Subsec. (e)(1)(C)(ii)(II). Pub. L. 103-66, §13714(a)(5), substituted “any succeeding fiscal year” for “fiscal year 1992”.

1990—Subsec. (a)(2)(C). Pub. L. 101-508 inserted “who has not attained age 21” after “also include any child” and struck out before semicolon “, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care”.

1989—Subsec. (a)(1). Pub. L. 101-239, §8002(a)(1), substituted “through 1992” for “, 1988, and 1989”.

Subsec. (c). Pub. L. 101-239, §8002(a)(2), substituted “any of the fiscal years 1988 through 1992” for “the fiscal year 1988 or 1989”.

Subsec. (e)(1). Pub. L. 101-239, §8002(b)(1), (2), (4), (5), designated existing provisions as subpar. (A), substituted “The basic amount” for “The amount” and “the basic ceiling for such fiscal year” for “\$45,000,000”, and added subpars. (B) and (C).

Pub. L. 101-239, §8002(b)(3), which directed amendment of subpar. (A) by substituting “1989, 1990, 1991, and 1992” for “and 1989” could not be executed because the words “and 1989” did not appear after execution of amendment by Pub. L. 101-239, §8002(a)(1), see below.

Pub. L. 101-239, §8002(a)(1), substituted “through 1992” for “, 1988, and 1989”.

1988—Subsec. (a). Pub. L. 100-647, §8104(a)(1), substituted “1987, 1988, and 1989” for “1987 and 1988”.

Subsec. (a)(1). Pub. L. 100-647, §8104(c), designated existing provisions as par. (1), substituted “children described in paragraph (2) who have attained age 16” for “children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16,” and added par. (2).

Subsec. (a)(2)(C). Pub. L. 100-647, §8104(d), added subpar. (C).

Subsec. (c). Pub. L. 100-647, §8104(a)(2), substituted “for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to February 1 of such fiscal year” for “for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988”.

Subsec. (e)(1). Pub. L. 100-647, §8104(a)(1), substituted “1987, 1988, and 1989” for “1987 and 1988”.

Subsec. (e)(3). Pub. L. 100-647, §8104(f), inserted at end “Amounts payable under this section may not be used for the provision of room or board.”

Subsec. (f). Pub. L. 100-647, §8104(b), inserted at end “Notwithstanding paragraph (3), payments made to a State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.”

Subsec. (g)(1). Pub. L. 100-647, §8104(a)(3), (4), substituted “Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year” for “Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out”.

Subsec. (g)(2). Pub. L. 100-647, §8104(a)(5), (6), substituted:

“(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

“(B) Not later than March 1, 1989,” for “Not later than July 1, 1988,” and substituted “fiscal years 1987 and 1988” for “fiscal year 1987” in subpar. (B).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 111(d) of Pub. L. 113-183, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 effective Oct. 1, 2010, see section 2955(d) of Pub. L. 111-148, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(b), (c)(1)(B) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amend-

ment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-133 effective Jan. 17, 2002, with delay permitted if State legislation is required, see section 301 of Pub. L. 107-133, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

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.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13714(b), Aug. 10, 1993, 107 Stat. 657, provided that: "The amendments made by subsection (a) [amending this section] shall apply to activities engaged in, on, or after October 1, 1992."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5073(b), Nov. 5, 1990, 104 Stat. 1388-233, provided that: "The amendments made by subsection (a) [amending this section] shall apply to payments made under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.] for fiscal years beginning in or after fiscal year 1991."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective Oct. 1, 1989, see section 8002(e) of Pub. L. 101-239, set out as a note under section 674 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VIII, §8104(g), Nov. 10, 1988, 102 Stat. 3797, provided that:

"(1) The amendments made by subsections (a), (b), and (e) [amending this section and section 675 of this title] shall take effect on October 1, 1988.

"(2) The amendments made by subsections (c), (d), and (f) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988]."

REGULATIONS

Pub. L. 106-169, title I, §101(d), Dec. 14, 1999, 113 Stat. 1828, provided that: "Not later than 12 months after the date of the enactment of this Act [Dec. 14, 1999], the Secretary of Health and Human Services shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section and section 674 of this title]."

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(b), (c)(1)(B) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

CONTINUED SAFE OPERATION OF CHILD WELFARE PROGRAMS AND SUPPORT FOR OLDER FOSTER YOUTH

Pub. L. 116-260, div. X, §3, Dec. 27, 2020, 134 Stat. 2409, provided that:

"(a) FUNDING INCREASES.—

"(1) INCREASE IN SUPPORT FOR CHAFEE PROGRAMS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$400,000,000 for fiscal year 2021, to carry out section 477 of the Social Security Act [42 U.S.C. 677], in addition to any amounts otherwise made available for such purpose.

"(2) EDUCATION AND TRAINING VOUCHERS.—Of the amount made available by reason of paragraph (1) of this subsection, not less than \$50,000,000 shall be reserved for the provision of vouchers pursuant to section 477(h)(2) of the Social Security Act.

"(3) APPLICABILITY OF TECHNICAL ASSISTANCE TO ADDITIONAL FUNDS.—

"(A) IN GENERAL.—Section 477(g)(2) of the Social Security Act shall apply with respect to the amount made available by reason of paragraph (1) of this subsection as if the amount were included in the amount specified in section 477(h) of such Act.

"(B) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—Of the amount to which section 477(g)(2) of the Social Security Act applies by reason of subparagraph (A) of this paragraph, the Secretary shall reserve not less than \$500,000 to provide technical assistance to a State implementing or seeking to implement a driving and transportation program for foster youth.

"(ii) PROVIDER QUALIFICATIONS.—The Secretary shall ensure that the entity providing the assistance has demonstrated the capacity to—

"(I) successfully administer activities in 1 or more States to provide driver's licenses to youth who are in foster care under the responsibility of the State; and

"(II) increase the number of such foster youth who obtain a driver's license.

"(4) INAPPLICABILITY OF STATE MATCHING REQUIREMENT TO ADDITIONAL FUNDS.—In making payments under subsections (a)(4) and (e)(1) of section 474 of the Social Security Act [42 U.S.C. 674] from the additional funds made available as a result of paragraphs (1) and (2) of this subsection, the percentages specified in subsections (a)(4)(A)(i) and (e)(1) of such section are, respectively, deemed to be 100 percent.

"(5) MAXIMUM AWARD AMOUNT.—The dollar amount specified in section 477(i)(4)(B) of the Social Security Act through the end of fiscal year 2022 is deemed to be \$12,000.

"(6) INAPPLICABILITY OF NYTD PENALTY TO ADDITIONAL FUNDS.—In calculating any penalty under section 477(e)(2) of the Social Security Act with respect to the National Youth in Transition Database (NYTD) for April 1, 2020, through the end of fiscal year 2022, none of the additional funds made available by reason of paragraphs (1) and (2) of this subsection shall be considered to be part of an allotment to a State under section 477(c) of such Act.

"(b) MAXIMUM AGE LIMITATION ON ELIGIBILITY FOR ASSISTANCE.—During fiscal years 2020 and 2021, a child may be eligible for services and assistance under section 477 of the Social Security Act [42 U.S.C. 677] until the child attains 27 years of age, notwithstanding any contrary certification made under such section.

"(c) SPECIAL RULE.—With respect to funds made available by reason of subsection (a) that are used during the COVID-19 public health emergency period to support activities due to the COVID-19 pandemic, the Secretary may not require any State to provide proof of a direct connection to the pandemic if doing so would be administratively burdensome or would otherwise delay or impede the ability of the State to serve foster youth.

"(d) PROGRAMMATIC FLEXIBILITIES.—During the COVID-19 public health emergency period:

"(1) SUSPENSION OF CERTAIN REQUIREMENTS UNDER THE EDUCATION AND TRAINING VOUCHER PROGRAM.—The Secretary shall allow a State to waive the applicability of the requirement in section 477(i)(3) of the Social Security Act that a youth must be enrolled in a postsecondary education or training program or making satisfactory progress toward completion of that program if a youth is unable to do so due to the COVID-19 public health emergency.

"(2) AUTHORITY TO USE VOUCHERS TO MAINTAIN TRAINING AND POSTSECONDARY EDUCATION.—A voucher provided under a State educational and training voucher program under section 477(i) of the Social Security Act may be used for maintaining training and postsecondary education, including less than full-time matriculation costs or other expenses that are not part of the cost of attendance but would help support youth in remaining enrolled as described in paragraph (1) of this subsection.

"(3) AUTHORITY TO WAIVE LIMITATIONS ON PERCENTAGE OF FUNDS USED FOR HOUSING ASSISTANCE AND ELI-

GIBILITY FOR SUCH ASSISTANCE.—Notwithstanding section 477(b)(3)(B) of the Social Security Act, a State may use—

“(A) more than 30 percent of the amounts paid to the State from its allotment under section 477(c)(1) of such Act for a fiscal year, for room or board payments; and

“(B) any of such amounts for youth otherwise eligible for services under section 477 of such Act who—

“(i) have attained 18 years of age and not 27 years of age; and

“(ii) experienced foster care at 14 years of age or older.

“(4) AUTHORITY TO PROVIDE DRIVING AND TRANSPORTATION ASSISTANCE.—

“(A) USE OF FUNDS.—Funds provided under section 477 of the Social Security Act may be used to provide driving and transportation assistance to youth described in paragraph (3)(B) who have attained 15 years of age with costs related to obtaining a driver’s license and driving lawfully in a State (such as vehicle insurance costs, driver’s education class and testing fees, practice lessons, practice hours, license fees, roadside assistance, deductible assistance, and assistance in purchasing an automobile).

“(B) MAXIMUM ALLOWANCE.—The amount of the assistance provided for each eligible youth under subparagraph (A) shall not exceed \$4,000 per year, and any assistance so provided shall be disregarded for purposes of determining the recipient’s eligibility for, and the amount of, any other Federal or federally-supported assistance, except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or federally-supported programs.

“(C) REPORT TO THE CONGRESS.—Within 6 months after the end of the expenditure period, the Secretary shall submit to the Congress a report on the extent to which, and the manner in which, the funds to which subsection (a)(3) applies were used to provide technical assistance to State child welfare programs, monitor State performance and foster youth outcomes, and evaluate program effectiveness.”

[For definitions of terms used in section 3 of div. X of Pub. L. 116-260, set out above, see section 2 of div. X of Pub. L. 116-260, set out as a note under section 629h of this title.]

TEMPORARY EXTENSION OF AVAILABILITY OF INDEPENDENT LIVING FUNDS

Pub. L. 107-133, title II, §202(b), Jan. 17, 2002, 115 Stat. 2425, extended the availability of payments made to a State under this section for fiscal year 2000 through fiscal year 2002.

FINDINGS

Pub. L. 106-169, title I, §101(a), Dec. 14, 1999, 113 Stat. 1823, provided that: “The Congress finds the following:

“(1) States are required to make reasonable efforts to find adoptive families for all children, including older children, for whom reunification with their biological family is not in the best interests of the child. However, some older children will continue to live in foster care. These children should be enrolled in an Independent Living program designed and conducted by State and local government to help prepare them for employment, postsecondary education, and successful management of adult responsibilities.

“(2) Older children who continue to be in foster care as adolescents may become eligible for Independent Living programs. These Independent Living programs are not an alternative to adoption for these children. Enrollment in Independent Living programs can occur concurrent with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

“(3) About 20,000 adolescents leave the Nation’s foster care system each year because they have reached 18 years of age and are expected to support themselves.

“(4) Congress has received extensive information that adolescents leaving foster care have significant difficulty making a successful transition to adulthood; this information shows that children aging out of foster care show high rates of homelessness, non-marital childbearing, poverty, and delinquent or criminal behavior; they are also frequently the target of crime and physical assaults.

“(5) The Nation’s State and local governments, with financial support from the Federal Government, should offer an extensive program of education, training, employment, and financial support for young adults leaving foster care, with participation in such program beginning several years before high school graduation and continuing, as needed, until the young adults emancipated from foster care establish independence or reach 21 years of age.”

STUDY AND REPORT EVALUATING EFFECTIVENESS OF PROGRAMS

Pub. L. 101-239, title VIII, §8002(d), Dec. 19, 1989, 103 Stat. 2453, provided that:

“(1) STUDY.—The Secretary of Health and Human Services shall study the programs authorized under section 477 of the Social Security Act [42 U.S.C. 677] for the purposes of evaluating the effectiveness of the programs. The study shall include a comparison of outcomes of children who participated in the programs and a comparable group of children who did not participate in the programs.

“(2) REPORT.—Upon completion of the study, the Secretary shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.”

§ 678. Rule of construction

Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 671(a)(15)(D) of this title.

(Aug. 14, 1935, ch. 531, title IV, §478, as added Pub. L. 105-89, title I, §101(d), Nov. 19, 1997, 111 Stat. 2117.)

Editorial Notes

PRIOR PROVISIONS

A prior section 678, act Aug. 14, 1935, ch. 531, title IV, §478, as added Oct. 22, 1986, Pub. L. 99-514, title XVIII, §1883(b)(10)(A), 100 Stat. 2917, excluded from AFDC unit child for whom foster care maintenance payments are made, prior to repeal by Pub. L. 101-508, title V, §5052(b), (c), Nov. 5, 1990, 104 Stat. 1388-228, applicable with respect to benefits for months beginning on or after the first day of the sixth calendar month following November 1990.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 1997 Amendments note under section 622 of this title.

§ 679. Collection of data relating to adoption and foster care

(a) Advisory Committee on Adoption and Foster Care Information

(1) Not later than 90 days after October 21, 1986, the Secretary shall establish an Advisory

Committee on Adoption and Foster Care Information (in this section referred to as the “Advisory Committee”) to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(2) The study required by paragraph (1) shall—

(A) identify the types of data necessary to—

(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

(ii) develop appropriate national policies with respect to adoption and foster care;

(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

(D) evaluate the financial and administrative impact of implementing each such method.

(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

(B) The membership of the Advisory Committee shall include representatives of—

(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

(v) Federal agencies responsible for the collection of health and social statistics, and

(vi) organizations and agencies involved with privately arranged or international adoptions.

(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

(b) Report to Congress; regulations

(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

(B) The report required by subparagraph (A) shall—

(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of—

(A) the system proposed under paragraph (1)(A)(i), or

(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

(c) Data collection system

Any data collection system developed and implemented under this section shall—

(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

(3) provide comprehensive national information with respect to—

(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,

(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),

(C) the number and characteristics of—

(i) children placed in or removed from foster care,

(ii) children adopted or with respect to whom adoptions have been terminated, and

(iii) children placed in foster care outside the State which has placement and care responsibility,

(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided;¹ and

(E) the annual number of children in foster care who are identified as sex trafficking victims—

(i) who were such victims before entering foster care; and

¹ So in original. The semicolon probably should be a comma.

(ii) who were such victims while in foster care; and

(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

(d) Data collection on adoption and legal guardianship disruption and dissolution

To promote improved knowledge on how best to ensure strong, permanent families for children, the Secretary shall promulgate regulations providing for the collection and analysis of information regarding children who enter into foster care under the supervision of a State after prior finalization of an adoption or legal guardianship. The regulations shall require each State with a State plan approved under this part to collect and report as part of such data collection system the number of children who enter foster care under supervision of the State after finalization of an adoption or legal guardianship and may include information concerning the length of the prior adoption or guardianship, the age of the child at the time of the prior adoption or guardianship, the age at which the child subsequently entered foster care under supervision of the State, the type of agency involved in making the prior adoptive or guardianship placement, and any other factors determined necessary to better understand factors associated with the child's post-adoption or post-guardianship entry to foster care.

(Aug. 14, 1935, ch. 531, title IV, §479, as added Pub. L. 99-509, title IX, §9443, Oct. 21, 1986, 100 Stat. 2073; amended Pub. L. 103-432, title II, §209(c), Oct. 31, 1994, 108 Stat. 4459; Pub. L. 113-183, title I, §103, title II, §208, Sept. 29, 2014, 128 Stat. 1922, 1940.)

Editorial Notes

AMENDMENTS

2014—Subsec. (c)(3)(E). Pub. L. 113-183, §103, added subpar. (E).

Subsec. (d). Pub. L. 113-183, §208, added subsec. (d).

1994—Subsec. (c)(3)(C)(iii). Pub. L. 103-432 added cl. (iii).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective with respect to fiscal years beginning on or after Oct. 1, 1995, see section 209(d) of Pub. L. 103-432, set out as a note under section 675 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 679a. National Adoption Information Clearinghouse

The Secretary of Health and Human Services shall establish, either directly or by grant or

contract, a National Adoption Information Clearinghouse. The Clearinghouse shall—

(1) collect, compile, and maintain information obtained from available research, studies, and reports by public and private agencies, institutions, or individuals concerning all aspects of infant adoption and adoption of children with special needs;

(2) compile, maintain, and periodically revise directories of information concerning—

(A) crisis pregnancy centers,

(B) shelters and residences for pregnant women,

(C) training programs on adoption,

(D) educational programs on adoption,

(E) licensed adoption agencies,

(F) State laws relating to adoption,

(G) intercountry adoption, and

(H) any other information relating to adoption for pregnant women, infertile couples, adoptive parents, unmarried individuals who want to adopt children, individuals who have been adopted, birth parents who have placed a child for adoption, adoption agencies, social workers, counselors, or other individuals who work in the adoption field;

(3) disseminate the information compiled and maintained pursuant to paragraph (1) and the directories compiled and maintained pursuant to paragraph (2); and

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 679 of this title, disseminate the data and information made available through that system.

(Pub. L. 99-509, title IX, §9442, Oct. 21, 1986, 100 Stat. 2073.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 and also as part of the Omnibus Budget Reconciliation Act of 1986, and not as part of the Social Security Act which comprises this chapter.

§ 679b. Annual report

(a) In general

The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall—

(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to part B and this part to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part;

(5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved;

(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child;

(B) the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year as a percentage of the total number of the visits that would occur during the fiscal year if each child were so visited once every month while in such care; and

(C) the percentage of the visits that occurred in the residence of the child; and

(7) include in the report submitted pursuant to paragraph (5) for fiscal year 2016 or any succeeding fiscal year, State-by-State data on—

(A) children in foster care who have been placed in a child care institution or other setting that is not a foster family home, including—

(i) with respect to each such placement—

(I) the type of the placement setting, including whether the placement is shelter care, a group home and if so, the range of the child population in the home, a residential treatment facility, a hospital or institution providing medical, rehabilitative, or psychiatric care, a setting specializing in providing prenatal, post-partum, or parenting supports, or some other kind of child-care institution and if so, what kind;

(II) the number of children in the placement setting and the age, race, ethnicity, and gender of each of the children;

(III) for each child in the placement setting, the length of the placement of the child in the setting, whether the placement of the child in the setting is the first placement of the child and if not, the number and type of previous placements of the child, and whether the child has special needs or another diagnosed mental or physical illness or condition; and

(IV) the extent of any specialized education, treatment, counseling, or other services provided in the setting; and

(ii) separately, the number and ages of children in the placements who have a permanency plan of another planned permanent living arrangement; and

(B) children in foster care who are pregnant or parenting.

(b) Consultation on other issues

The Secretary shall consult with States and organizations with an interest in child welfare, including organizations that provide adoption and foster care services, and shall take into account requests from Members of Congress, in selecting other issues to be analyzed and reported on under this section using data available to the Secretary, including data reported by States through the Adoption and Foster Care Analysis and Reporting System and to the National Youth in Transition Database.

(Aug. 14, 1935, ch. 531, title IV, §479A, as added Pub. L. 105-89, title II, §203(a), Nov. 19, 1997, 111 Stat. 2126; amended Pub. L. 109-288, §7(c)(2), Sept. 28, 2006, 120 Stat. 1249; Pub. L. 112-34, title I, §106(d), Sept. 30, 2011, 125 Stat. 377; Pub. L. 113-183, title I, §115, Sept. 29, 2014, 128 Stat. 1930; Pub. L. 115-123, div. E, title VII, §50744, Feb. 9, 2018, 132 Stat. 260.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(7)(A). Pub. L. 115-123 added cls. (i) and (ii) and struck out former cls. (i) to (vi) which read as follows:

“(i) the number of children in the placements and their ages, including separately, the number and ages of children who have a permanency plan of another planned permanent living arrangement;

“(ii) the duration of the placement in the settings (including for children who have a permanency plan of another planned permanent living arrangement);

“(iii) the types of child care institutions used (including group homes, residential treatment, shelters, or other congregate care settings);

“(iv) with respect to each child care institution or other setting that is not a foster family home, the number of children in foster care residing in each such institution or non-foster family home;

“(v) any clinically diagnosed special need of such children; and

“(vi) the extent of any specialized education, treatment, counseling, or other services provided in the settings; and”.

2014—Pub. L. 113-183 designated existing provisions as subsec. (a), inserted heading, and added par. (7) and subsec. (b).

2011—Par. (6)(B), (C). Pub. L. 112-34 added subpar. (B) and redesignated former subpar. (B) as (C).

2006—Par. (6). Pub. L. 109-288 added par. (6).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-123 effective as if enacted on Jan. 1, 2018, subject to transition rule and State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B

of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1997 Amendments note under section 622 of this title.

DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM

Pub. L. 105-89, title II, §203(b), Nov. 19, 1997, 111 Stat. 2127, provided that: "The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall study, develop, and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on the State's performance under such a system. Such a system shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required by section 479A of the Social Security Act [42 U.S.C. 679b] (as added by subsection (a) of this section) or on any proposed modifications of the annual report. Not later than 6 months after the date of the enactment of this Act [Nov. 19, 1997], the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a progress report on the feasibility, timetable, and consultation process for conducting such a study. Not later than 15 months after such date of enactment, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the final report on a performance-based incentive system. The report may include other recommendations for restructuring the program and payments under parts B and E of title IV of the Social Security Act."

§ 679c. Programs operated by Indian tribal organizations

(a) Definitions of Indian tribe; tribal organizations

In this section, the terms "Indian tribe" and "tribal organization" have the meanings given those terms in section 5304 of title 25.

(b) Authority

Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 671 of this title in accordance with this section.

(c) Plan requirements

(1) In general

An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 671 of this title the following:

(A) Financial management

Evidence demonstrating that the tribe, organization, or consortium has not had any uncorrected significant or material audit exceptions under Federal grants or contracts

that directly relate to the administration of social services for the 3-year period prior to the date on which the plan is submitted.

(B) Service areas and populations

For purposes of complying with section 671(a)(3) of this title, a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

(C) Eligibility

(i) In general

Subject to clause (ii) of this subparagraph, an assurance that the plan will provide—

(I) foster care maintenance payments under section 672 of this title only on behalf of children who satisfy the eligibility requirements of section 672(a) of this title;

(II) adoption assistance payments under section 673 of this title pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section;

(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 673(d) of this title only on behalf of children who meet the requirements of section 673(d)(3) of this title; and

(IV) at the option of the tribe, organization, or consortium, services and programs specified in section 671(e)(1) of this title to children described in section 671(e)(2) of this title and their parents or kin caregivers, in accordance with section 671(e) of this title and subparagraph (E).

(ii) Satisfaction of foster care eligibility requirements

For purposes of determining whether a child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 671 of this title in accordance with this section satisfies the requirements of section 672(a) of this title, the following shall apply:

(I) Use of affidavits, etc.

Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 672(a) of this title shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under that paragraph.

(II) AFDC eligibility requirement

The State plan approved under section 602 of this title (as in effect on July 16, 1996) of the State in which the child re-

sides at the time of removal from the home shall apply to the determination of whether the child satisfies section 672(a)(3) of this title.

(D) Option to claim in-kind expenditures from third-party sources for non-Federal share of administrative and training costs during initial implementation period

Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 674(a)(3) of this title. The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

(i) No effect on authority for tribes, organizations, or consortia to claim expenditures or indirect costs to the same extent as States

Nothing in this subparagraph shall be construed as preventing a tribe, organization, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 674(a) of this title that a State with a plan approved under section 671(a) of this title could claim for such purposes.

(ii) Fiscal year 2010 or 2011

(I) Expenditures other than for training

With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 674(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required under this subparagraph to be submitted with the plan.

(II) Training expenditures

With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 674(a)(3) of this title, not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

(III) Sources described

For purposes of subclause (II), the sources described in this subclause are the following:

(aa) A State or local government.

(bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.

(cc) A public institution of higher education.

(dd) A Tribal College or University (as defined in section 1059c of title 20).

(ee) A private charitable organization.

(iii) Fiscal year 2012, 2013, or 2014

(I) In general

Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 674(a)(3) of this title, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

(II) Transition period for early approved tribes, organizations, or consortia

Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the earlier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

(III) Definition of early approved tribe, organization, or consortium

For purposes of subclause (II) of this clause, the term “early approved tribe,

organization, or consortium” means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 671 of this title in accordance with this section for any quarter of fiscal year 2010 or 2011.

(iv) Fiscal year 2015 and thereafter

Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 674(a)(3) of this title, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any subparagraph of such section 674(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

(v) Contingency rule

If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for¹ under section 674(a)(3) of this title, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise—

(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under section 671(a) of this title could not claim in-kind expenditures from third-party sources for such purposes.

(E) Prevention services and programs for children and their parents and kin caregivers

(i) In general

In the case of a tribe, organization, or consortium that elects to provide services and programs specified in section 671(e)(1) of this title to children described in section 671(e)(2) of this title and their parents or kin caregivers under the plan, the Secretary shall specify the requirements applicable to the provision of the services and programs. The requirements shall, to

the greatest extent practicable, be consistent with the requirements applicable to States under section 671(e) of this title and shall permit the provision of the services and programs in the form of services and programs that are adapted to the culture and context of the tribal communities served.

(ii) Performance measures

The Secretary shall establish specific performance measures for each tribe, organization, or consortium that elects to provide services and programs specified in section 671(e)(1) of this title. The performance measures shall, to the greatest extent practicable, be consistent with the prevention services measures required for States under section 671(e)(6) of this title but shall allow for consideration of factors unique to the provision of the services by tribes, organizations, or consortia.

(2) Clarification of tribal authority to establish standards for tribal foster family homes and tribal child care institutions

For purposes of complying with section 671(a)(10) of this title, an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

(3) Consortium

The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 671 of this title that meets the requirements of this section.

(4) Inapplicability of State plan requirement to have in effect procedures providing for the use of an electronic interstate case-processing system

The requirement in section 671(a)(25) of this title that a State plan provide that the State shall have in effect procedures providing for the use of an electronic interstate case-processing system shall not apply to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part.

(d) Determination of Federal medical assistance percentage

(1) Per capita income

For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), (5), and (6)(A) of section 674(a) of this title, the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

¹ So in original.

(2) Consideration of other information

Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

(e) Nonapplication to cooperative agreements and contracts

Any 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 this part that is in effect as of October 7, 2008, shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

(f) John H. Chafee Foster Care Independence Program

Except as provided in section 677(j) of this title, subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 677 of this title (or with respect to payments made under section 674(a)(4) of this title or grants made under section 674(e) of this title).

(g) Rule of construction

Nothing in this section shall be construed as affecting the application of section 672(h) of this title to a child on whose behalf payments are paid under section 672 of this title, or the application of section 673(b) of this title to a child on whose behalf payments are made under section 673 of this title pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.

(Aug. 14, 1935, ch. 531, title IV, § 479B, as added Pub. L. 110-351, title III, § 301(a)(1), Oct. 7, 2008, 122 Stat. 3962; amended Pub. L. 115-123, div. E, title VII, §§ 50711(e), 50722(b), Feb. 9, 2018, 132 Stat. 243, 246.)

Editorial Notes

REFERENCES IN TEXT

Section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008, referred to in subsec. (c)(1)(D)(iii)(I), (iv), (v), is section 301(e)(2) of Pub. L. 110-351, which is set out as a note under section 671 of this title.

AMENDMENTS

2018—Subsec. (c)(1)(C)(i)(IV). Pub. L. 115-123, § 50711(e)(1)(A)(i), added subcl. (IV).

Subsec. (c)(1)(E). Pub. L. 115-123, § 50711(e)(1)(A)(ii), added subpar. (E).

Subsec. (c)(4). Pub. L. 115-123, § 50722(b), added par. (4).
 Subsec. (d). Pub. L. 115-123, § 50711(e)(2), struck out “for foster care maintenance and adoption assistance payments” after “percentage” in heading.
 Subsec. (d)(1). Pub. L. 115-123, § 50711(e)(1)(B), substituted “(5, and (6)(A)” for “and (5)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-123 effective Oct. 1, 2018, subject to transition rules for required State legislation or tribal action, see section 50734 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note under section 671 of this title.

Enactment of this section effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of enactment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note under section 671 of this title.

CONSTRUCTION

For construction of section, see section 301(d) of Pub. L. 110-351, set out as a Construction of 2008 Amendment note under section 671 of this title.

PART F—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

§§ 681 to 687. Repealed. Pub. L. 104-193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167

Section 681, act Aug. 14, 1935, ch. 531, title IV, § 481, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2360, related to purpose of part and definitions.

Section 682, act Aug. 14, 1935, ch. 531, title IV, § 482, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2360; amended Oct. 31, 1994, Pub. L. 103-432, title II, § 241(a), 108 Stat. 4466, related to establishment and operation of State programs.

Section 683, act Aug. 14, 1935, ch. 531, title IV, § 483, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2369, related to coordination of Federal and State programs.

Section 684, act Aug. 14, 1935, ch. 531, title IV, § 484, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2370, related to provisions generally applicable to provision of services.

Section 685, act Aug. 14, 1935, ch. 531, title IV, § 485, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2371, related to contract authority.

Section 686, act Aug. 14, 1935, ch. 531, title IV, § 486, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2372, related to initial State evaluations.

Section 687, act Aug. 14, 1935, ch. 531, title IV, § 487, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 203(b), 102 Stat. 2378; amended Oct. 31, 1994, Pub. L. 103-432, title II, § 242, 108 Stat. 4466, related to performance standards.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal 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 Sec-