

105TH CONGRESS  
1ST SESSION

# H. R. 1459

To amend part E of title IV of the Social Security Act to prevent children from languishing in foster care.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1997

Mr. TIAHRT (for himself and Mr. BURTON of Indiana) (both by request), introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend part E of title IV of the Social Security Act to prevent children from languishing in foster care.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Child Protection and  
5       Adoption Advancement Act”.

6       **SEC. 2. LIMITATION ON REASONABLE EFFORTS REQUIRE-**  
7       **MENT.**

8       Section 471(a)(15) of the Social Security Act (42  
9       U.S.C. 671(a)(15)) is amended by striking “effective Oc-  
10      tober 1, 1983, provides that, in each case,” and inserting

1 “provides that, except in the case of a child to which sub-  
 2 section (c)(2) applies,”.

3 **SEC. 3. PRE-ADOPTIVE PROCEDURES.**

4 (a) IN GENERAL.—Section 471 of the Social Security  
 5 Act (42 U.S.C. 671) is amended by adding at the end the  
 6 following:

7 “(c) The Secretary shall not approve a State plan  
 8 under this part unless there is in effect in the State laws  
 9 and rules of law which provide all of the following:

10 “(1)(A) Within 30 days after a child who has  
 11 not attained 13 years of age (or such greater age as  
 12 the State may determine) is placed in foster care  
 13 under the responsibility of the State, a dispositional  
 14 hearing of the type described in section 475(5)(C)  
 15 shall be held to determine whether—

16 “(i) the child should be returned home;

17 “(ii) the child is described by subpara-  
 18 graph (C); or

19 “(iii) the child should remain in custody of  
 20 the State.

21 “(B) If, as a result of the hearing, it is deter-  
 22 mined that the case of the child is described by sub-  
 23 paragraph (C), paragraph (2) shall apply to the  
 24 child.

1           “(C) A child is described by this subparagraph  
2           if the child has been a victim of aggravated cir-  
3           cumstances (as defined by the State and approved  
4           by the Secretary) which definition may include—

5                   “(i) abandonment, torture, chronic abuse,  
6                   or sexual abuse; or

7                   “(ii) having a parent—

8                           “(I) who has been found by a court of  
9                           competent jurisdiction to have engaged in  
10                          conduct       described       in       section  
11                          106(b)(2)(A)(xii) of the Child Abuse Pre-  
12                          vention and Treatment Act; or

13                           “(II) whose parental rights with re-  
14                           spect to a sibling of the child have been  
15                           terminated.

16           “(2)(A)(i) If this paragraph applies to a child,  
17           the State shall—

18                   “(I) seek 1 or more individuals who are  
19                   qualified and willing to be the adoptive parents  
20                   of the child, or contract with a private adoption  
21                   agency to find 1 or more such individuals for  
22                   the child within 180 additional days after the  
23                   determination described in paragraph (1)(B)  
24                   (or, if this paragraph applies to the child by  
25                   reason of paragraph (3), within 180 days after

1 the termination of parental rights with respect  
2 to the child); and

3 “(II) if the State has not found 1 or more  
4 such individuals within the first 90 days of the  
5 180-day period described in subclause (I), im-  
6 mediately contract with a private adoption  
7 agency to find 1 or more such individuals for  
8 the child within the remaining 90 days of the  
9 180-day period.

10 “(ii) Upon finding 1 or more such individuals  
11 for a child to whom this paragraph applies, the  
12 State shall—

13 “(I) designate the individual or individuals  
14 as the preadoptive parent or parents of the  
15 child; and

16 “(II) place the child with the individual or  
17 individuals.

18 “(B)(i) After the 4-month period that begins  
19 with the date a child to whom this paragraph applies  
20 is placed with preadoptive parents (or at such earlier  
21 time as may be prescribed by State law), the  
22 preadoptive parents shall have the right to petition  
23 the courts of the State for an expedited hearing for  
24 the purpose of—

1 “(I) terminating the parental rights of all  
2 other persons with respect to the child; and

3 “(II) adopting the child.

4 “(ii) In determining whether to grant a petition  
5 described in clause (i), the courts of the State shall  
6 not draw any inference adverse to the interests of a  
7 petitioner by reason of the present or former status  
8 of any petitioner as a foster parent.

9 “(C)(i)(I) If the preadoptive parents of a child  
10 to whom this paragraph applies fail to exercise the  
11 right described in subparagraph (B)(i) with respect  
12 to the child during the 1-year period that begins  
13 with the date the preadoptive parents first have the  
14 right (including any extension required by subclause  
15 (II)), then the State shall—

16 “(aa) immediately revoke their designation  
17 as the preadoptive parents of the child; and

18 “(bb) hold a dispositional hearing of the  
19 type described in section 475(5)(C) to deter-  
20 mine whether the child should be placed with  
21 new preadoptive parents or remain in the cus-  
22 tody of the State.

23 “(II) The period described in subclause (I) (in-  
24 cluding any extension of the period) shall be ex-  
25 tended by 1 year if the State determines that—

1           “(aa) the preadoptive parents have good  
2           cause for having failed to exercise the right de-  
3           scribed in subparagraph (B)(i) during the pe-  
4           riod (including any extension of the period); or

5           “(bb) that it would not be in the best in-  
6           terests of the child to remove the child from the  
7           preadoptive parents.

8           “(ii) If, as a result of the hearing referred to  
9           in clause (i)(I)(bb), it is determined that the child  
10          should be placed with new pre-adoptive parents, the  
11          State shall—

12           “(I) seek 1 or more individuals (other than  
13           the former preadoptive parents of the child)  
14           who are qualified and willing to be the adoptive  
15           parents of the child, or contract with a private  
16           adoption agency to find 1 or more such individ-  
17           uals for the child within 180 days after the  
18           hearing; and

19           “(II) if the State has not found 1 or more  
20           such individuals within the first 90 days of the  
21           180-day period described in subclause (I), im-  
22           mediately contract with a private adoption  
23           agency to find 1 or more such individuals for  
24           the child within the remaining 90 days of the  
25           180-day period.

1           “(iii) Upon finding 1 or more such other indi-  
2           viduals for the child, the State shall—

3                   “(I) designate such other individual or in-  
4                   dividuals as the preadoptive parent or parents  
5                   of the child; and

6                   “(II) place the child with such other indi-  
7                   vidual or individuals.

8           “(3)(A) If a child has been in foster care under  
9           the responsibility of the State during 12 of the most  
10          recent 18 months, or it is no longer reasonable for  
11          the State to continue making efforts of the type de-  
12          scribed in subsection (a)(15) with respect to a child  
13          in foster care under the responsibility of the State  
14          who has not attained 13 years of age (or such great-  
15          er age as the State may establish), the State shall  
16          seek to terminate all parental rights with respect to  
17          the child, unless—

18                   “(i) at the option of the State—

19                           “(I) the child is being cared for by a  
20                           relative who is qualified and willing to  
21                           adopt, or become the legal guardian of, the  
22                           child; and

23                           “(II) it is in the best interests of the  
24                           child to reside with the relative; or

1                   “(ii) a State court or State agency has  
2                   documented a compelling reason for determin-  
3                   ing that filing such a petition would not be in  
4                   the best interests of the child.

5                   “(B) Upon terminating all parental rights with  
6                   respect to the child, paragraph (2) shall apply to the  
7                   child.”.

8                   (b) REPORT TO THE CONGRESS.—At the end of the  
9                   27-month period that begins with the effective date of the  
10                  amendment made by subsection (a), the Secretary of  
11                  Health and Human Services shall prepare and submit to  
12                  the Committee on Ways and Means of the House of Rep-  
13                  resentatives and the Committee on Finance of the Senate  
14                  a report which assesses the implementation and effects of  
15                  the amendment.

16   **SEC. 4. EFFECTIVE DATE.**

17                  (a) IN GENERAL.—Except as provided in subsection  
18                  (b), the amendments made by this Act shall apply to pay-  
19                  ments under title IV of the Social Security Act for cal-  
20                  endar quarters beginning after the calendar quarter in  
21                  which this Act is enacted.

22                  (b) DELAY PERMITTED IF STATE LEGISLATION RE-  
23                  QUIRED.—In the case of a State plan approved under title  
24                  IV of the Social Security Act which the Secretary of  
25                  Health and Human Services determines requires State



1 legislation (other than legislation appropriating funds) in  
2 order for the plan to meet the additional requirements im-  
3 posed by the amendments made by this Act, the State plan  
4 shall not be regarded as failing to comply with the require-  
5 ments of such part solely on the basis of the failure of  
6 the plan to meet such additional requirements before the  
7 1st day of the 1st calendar quarter beginning after the  
8 close of the 1st regular session of the State legislature that  
9 begins after the date of the enactment of this Act. For  
10 purposes of the previous sentence, in the case of a State  
11 that has a 2-year legislative session, each year of such ses-  
12 sion shall be deemed to be a separate regular session of  
13 the State legislature.

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