

108TH CONGRESS  
1ST SESSION

# S. 1704

To amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2003

Ms. COLLINS (for herself, Mr. PRYOR, Mr. COLEMAN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

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 “Keeping Families To-  
5       gether Act”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to assist States in elimi-  
 3 nating the practice of parents giving custody of their seri-  
 4 ously emotionally disturbed children to State agencies for  
 5 the purpose of securing mental health care for those chil-  
 6 dren.

7 **SEC. 3. FAMILY SUPPORT GRANTS.**

8 Title V of the Public Health Service Act (42 U.S.C.  
 9 290aa et seq.) is amended—

10 (1) by redesignating the second part G (relating  
 11 to services provided through religious organizations)  
 12 as part J;

13 (2) by redesignating sections 581 through 584  
 14 of part J (as so redesignated) as sections 596  
 15 through 596C, respectively; and

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

17 “PART K—FAMILY SUPPORT

18 **“SEC. 597. FAMILY SUPPORT GRANTS.**

19 “(a) IN GENERAL.—The Secretary, acting through  
 20 the Administrator and in consultation with the task force  
 21 established under section 597A, is authorized to award  
 22 competitive grants to States to enable such States to es-  
 23 tablish systems of care to treat and provide services to  
 24 all eligible children and youth. The Secretary shall ensure  
 25 that the amount awarded to each grantee is sufficient to

1 enable the grantee to accomplish the purposes of the  
2 grant.

3 “(b) ELIGIBILITY.—To be eligible for a grant under  
4 subsection (a) a State shall—

5 “(1) have laws or policies in effect to ensure  
6 that children receive appropriate mental health serv-  
7 ices so that parents do not have to relinquish legal  
8 custody of such children;

9 “(2) submit to the Secretary an application  
10 from the Governor in accordance with subsection (c);

11 “(3) provide assurances that the State will pro-  
12 vide matching funds in accordance with subsection  
13 (e); and

14 “(4) meet such other requirements as the Sec-  
15 retary determines appropriate.

16 “(c) APPLICATION.—

17 “(1) IN GENERAL.—An application submitted  
18 for a grant under this section shall include—

19 “(A) a brief description of the system of  
20 care that the State intends to establish with  
21 amounts received under the grant to ensure  
22 that eligible children and youth and their fami-  
23 lies receive the appropriate individualized men-  
24 tal health treatment and family support services  
25 necessary to keep such families together;

1           “(B) a description of the process by which  
2           the State will formulate a State plan that meets  
3           the requirements of paragraph (2), including  
4           participants, timelines, and any previous or on-  
5           going efforts related to the establishment of a  
6           statewide system;

7           “(C) an estimate of the number of eligible  
8           children and youth in the State, and the num-  
9           ber of eligible children and youth who will be  
10          served under the grant;

11          “(D) a description of existing systems of  
12          care in the State (including systems funded  
13          under section 561) and existing interagency col-  
14          laboration that demonstrates a foundation on  
15          which the State can build a system of care  
16          under a grant under this section;

17          “(E) a brief description of the manner in  
18          which services for all eligible children and youth  
19          are expected to be funded under the system es-  
20          tablished by the State under the grant;

21          “(F) a description of children’s mental  
22          health services capacity in the State and the  
23          steps that will be taken, if necessary, to ensure  
24          that adequate capacity exists to implement the  
25          proposed system of care;

1           “(G) a description of the source of the  
2           State matching funds; and

3           “(H) other information as required by the  
4           Secretary.

5           “(2) STATE PLAN.—Prior to receiving funds  
6           under the grant for the second grant year, a State  
7           shall submit to the Secretary and the Secretary shall  
8           approve, a State plan that—

9           “(A) is developed through a collaborative  
10          process that includes the required State part-  
11          ners as represented by senior officials with pol-  
12          icymaking authority, the required private part-  
13          ners, and other entities that the governor of the  
14          State determines appropriate;

15          “(B) contains a description and assess-  
16          ment of the effectiveness of the laws or policies  
17          that the State has in effect to ensure that chil-  
18          dren receive appropriate mental health services  
19          and that parents do not have to relinquish legal  
20          custody of such children in order to obtain such  
21          services;

22          “(C) contains a description of the services  
23          to be provided to eligible children and youth  
24          and the sources of such services, including the

1 extent to which the State will build upon exist-  
2 ing systems of care within the State;

3 “(D) contains a description of the proce-  
4 dures to be implemented for the early identi-  
5 fication, assessment, and referral, by health  
6 care providers, mental health agencies, other  
7 child-serving entities, child welfare, corrections,  
8 and juvenile justice systems, of all eligible chil-  
9 dren and youth for appropriate care and for co-  
10 ordinating services among child welfare, juve-  
11 nile justice, and child mental health agencies,  
12 including co-location of services as appropriate;

13 “(E) describes any legislative changes that  
14 are required to implement the State plan;

15 “(F) describes how the State screens chil-  
16 dren and youth entering the juvenile justice and  
17 child welfare systems for mental health prob-  
18 lems, including the State’s mental health  
19 screening procedures as part of the early and  
20 periodic screening, diagnostic, and treatment  
21 services described in section 1905(r) of the So-  
22 cial Security Act that are provided under the  
23 medicaid programs;

1           “(G) contains a description of the plan of  
2           the State for ensuring that there will be ade-  
3           quate capacity to serve all eligible children;

4           “(H) contains a description of the plan of  
5           the State for financing the system of care devel-  
6           oped under the grant, including—

7                   “(i) the manner in which the State  
8                   will use—

9                           “(I) contributions from State  
10                          agencies;

11                          “(II) State eligibility options or  
12                          waivers authorized with respect to the  
13                          State medicaid program such as those  
14                          authorized under sections 1902(e)(3)  
15                          and 1915(c) of the Social Security  
16                          Act;

17                          “(III) the State Children’s  
18                          Health Insurance Program under title  
19                          XXI of the Social Security Act (in-  
20                          cluding an assurance that grant funds  
21                          will not be used as a State match  
22                          under the medicaid or SCHIP pro-  
23                          grams); and

24                          “(IV) other public health insur-  
25                          ance mechanisms; and

1                   “(ii) how Federal grant dollars will be  
2                   used to enable the State to achieve a sus-  
3                   tainable system of care to serve all eligible  
4                   children and youth;

5                   “(I) contains a description of how the  
6                   State will provide outreach services to families,  
7                   provide for public educational activities, and in-  
8                   volve families; and

9                   “(J) establishes a method for tracking and  
10                  reporting the number of children and youth en-  
11                  tering child welfare and juvenile justice systems  
12                  with significant mental health problems.

13               “(3) PRIORITY.—In awarding grants under this  
14               section, the Secretary shall give priority to States—

15               “(A) that have a history of developing and  
16               supporting local or statewide systems care and  
17               of successful interagency collaboration;

18               “(B) that have taken steps to broaden ac-  
19               cess to community-based services for children  
20               with serious emotional disturbances;

21               “(C) that have provided reasonable esti-  
22               mates of the numbers of eligible children and  
23               youth;

24               “(D) that have sufficient mental health  
25               service capacity or specific plans for sufficiently



1 increasing mental health services capacity to  
2 successfully implement the proposed system of  
3 care;

4 “(E) in which the governor’s office will  
5 play a leading role in the formulation of the  
6 State plan required under paragraph (2); and

7 “(F) that will involve State juvenile and  
8 family court judges in the planning and over-  
9 sight of the system of care.

10 “(d) USE OF FUNDS.—A State shall use amounts re-  
11 ceived under a grant under this section to—

12 “(1) establish State- and local-level infrastruc-  
13 ture to allow for interagency cooperation and cross  
14 system financing to—

15 “(A) support the purchase and delivery of  
16 a comprehensive array of community-based  
17 mental health and family support services to all  
18 eligible children and youth and their families;

19 “(B) decrease categorical funding struc-  
20 tures and eliminate inter-agency fragmentation  
21 of services; and

22 “(C) increase the capacity of agencies to  
23 share public resources and improve parental ac-  
24 cess to services for children with mental health

1 needs to eliminate the need to relinquish cus-  
2 tody in order to receive treatment;

3 “(2) expand public health insurance programs  
4 to cover a comprehensive array of community-based  
5 mental health and family support services for eligible  
6 children and youth and their families that will be  
7 sustainable after the grant has expired;

8 “(3) deliver mental health care and family sup-  
9 port services to eligible children and youth and their  
10 families as part of a transition to a sustainable sys-  
11 tem of care for such children and youth;

12 “(4) provide outreach and public education con-  
13 cerning programs and activities funded under this  
14 section;

15 “(5) provide training and professional develop-  
16 ment for personnel who work with eligible children  
17 and youth as required to successfully implement the  
18 State plan; and

19 “(6) carry out other administrative activities re-  
20 lated to the programs and activities carried out  
21 under the grant, including the development and  
22 maintenance of data systems.

23 “(e) MATCHING FUNDS.—

24 “(1) IN GENERAL.—A State that receives a  
25 grant under this section shall, with respect to the

1 costs to be incurred by the State in carrying out the  
2 purpose for which the grant is awarded, make avail-  
3 able non-Federal contributions toward such costs in  
4 an amount that—

5 “(A) for the third fiscal year for which the  
6 entity receives payments from a grant under  
7 such subsection, is not less than \$1 for each \$2  
8 of Federal funds provided in the grant;

9 “(B) for the fourth such fiscal year, is not  
10 less than \$1 for each \$1 of Federal funds pro-  
11 vided in the grant; and

12 “(C) for the fifth and sixth such fiscal  
13 years, is not less than \$2 for each \$1 of Fed-  
14 eral funds provided in the grant.

15 “(2) DETERMINATION OF AMOUNT CONTRIB-  
16 UTED.—Non-Federal contributions required in para-  
17 graph (1) may be in cash or in kind, fairly evalu-  
18 ated, including plant, equipment, or services.  
19 Amounts provided by the Federal Government, or  
20 services assisted or subsidized to any significant ex-  
21 tent by the Federal Government, may not be in-  
22 cluded in determining the amount of such non-Fed-  
23 eral contributions.

24 “(3) ACCOUNTING REQUIRED.—With respect to  
25 a State that complies with the requirement of para-

1 graph (2) through the provision of in-kind contribu-  
2 tions, such State shall provide the Secretary with an  
3 accounting that describes the value of such in-kind  
4 contributions.

5 “(f) LIMITATION ON USE FOR ADMINISTRATIVE  
6 COSTS.—Not more than 5 percent of the amount that a  
7 State receives under a grant under this section shall be  
8 used for administrative costs.

9 “(g) PAYMENTS.—Grants under this section shall be  
10 payable over a 6-year period.

11 “(h) REPORTING REQUIREMENTS.—

12 “(1) IN GENERAL.—Secretary, acting through  
13 the Administrator and in consultation with the task  
14 force established under section 597A, shall require  
15 States to report information that is appropriate to  
16 permit an assessment to be made of the success of  
17 States in the implementation of programs under this  
18 section. Such information shall, at a minimum, in-  
19 clude—

20 “(A) the number of eligible children and  
21 youth in foster care;

22 “(B) the number of eligible children and  
23 youth in residential treatment centers;

1           “(C) appropriate information concerning  
2           the participation and academic progress of eligi-  
3           ble children and youth in school;

4           “(D) measures of the contacts of eligible  
5           children and youth with juvenile justice sys-  
6           tems;

7           “(E) measures of the clinical improvement  
8           of eligible children and youth; and

9           “(F) information concerning the level of  
10          satisfaction of eligible children and youth and  
11          their families with services received.

12          “(2) ANNUAL REPORT BY STATES.—Beginning  
13          with the second fiscal year in which a State receives  
14          funding under a grant under this section, the State  
15          shall annually report to the Secretary on the success  
16          of the programs and activities carried out by the  
17          State under the grant. Such reports shall include the  
18          information specified in paragraph (1) and other in-  
19          formation required by the Secretary.

20          “(3) REPORTS BY THE SECRETARY.—

21                 “(A) IN GENERAL.—Not later than 3 years  
22                 after the date of enactment of this part, the  
23                 Secretary shall submit to Congress a report on  
24                 the success of States in using grants under this  
25                 section to eliminate children and youth custody

1           relinquishment solely to obtain mental health  
2           care. Such report shall include recommenda-  
3           tions to strengthen the program under this sec-  
4           tion.

5           “(B) FINAL REPORT.—Not later than 6  
6           years after the date of enactment of this part,  
7           the Secretary shall submit to Congress a final  
8           report on the success of States in using grants  
9           under this section to eliminate children and  
10          youth custody relinquishment solely to obtain  
11          mental health care.

12          “(i) TECHNICAL ASSISTANCE.—The Secretary, in  
13          consultation with the task force established under section  
14          597A, may provide technical assistance to States in car-  
15          rying out programs and activities under this section. The  
16          Secretary shall use not more than 20 percent of the  
17          amount appropriate for each fiscal year, not to exceed  
18          \$5,000,000 in any such fiscal year, to carry out this sub-  
19          section and shall coordinate technical assistance under  
20          this section with other technical assistance programs as  
21          appropriate.

22          “(j) DEFINITIONS.—In this section:

23               “(1) ELIGIBLE CHILDREN AND YOUTH.—The  
24               term ‘eligible children and youth’ means children  
25               and youth under the age of 21 years who are in the

1 custody of the State for the purpose of receiving  
2 mental health services or at-risk of entering into the  
3 custody of the State for the purpose of receiving  
4 mental health services.

5 “(2) FAMILY SUPPORT SERVICES.—The term  
6 ‘family support services’ means individualized serv-  
7 ices that are designed with input from the family  
8 and provided to eligible children and youth and their  
9 families to promote the mental health of an eligible  
10 child or youth, to strengthen the ability of family  
11 members to care for an eligible child or youth, or to  
12 enable an eligible child or youth to take advantage  
13 of other treatment and family support services.

14 “(3) REQUIRED PRIVATE PARTNERS.—The  
15 term ‘required private partners’ includes—

16 “(A) representatives of families of seriously  
17 emotionally disturbed children;

18 “(B) representatives of mental health care  
19 providers;

20 “(C) representatives of private health in-  
21 surers; and

22 “(D) representatives of hospitals and resi-  
23 dential care facilities.

1           “(4) REQUIRED STATE PARTNERS.—The term  
2           ‘required State partners’ with respect to a State in-  
3           cludes—

4                   “(A) the State agency responsible for chil-  
5           dren’s mental health;

6                   “(B) the State child welfare agency;

7                   “(C) the State juvenile justice agency;

8                   “(D) the State Medicaid agency;

9                   “(E) the State education agency;

10                  “(F) the State substance abuse agency;

11                  “(G) the State bureau of insurance; and

12                  “(H) the office of the Governor of the  
13           State.

14           “(5) STATE.—The term ‘State’ includes, in ad-  
15           dition to the several States, the District of Colum-  
16           bia, the Commonwealth of Puerto Rico, the Com-  
17           monwealth of the Northern Mariana Islands, the  
18           Virgin Islands, Guam, American Samoa, the Trust  
19           Territory of the Pacific Islands, and Indian tribes.

20           “(k) AUTHORIZATION OF APPROPRIATIONS.—There  
21           are authorized to be appropriated to carry out this section,  
22           \$4,500,000 for fiscal year 2004, \$6,500,000 for fiscal year  
23           2005, and \$11,000,000 for each of fiscal years 2006  
24           through 2009.



1   **“SEC. 597A. TASK FORCE.**

2           “(a) ESTABLISHMENT.—The Administrator, in con-  
3   junction with the Director of the Office of Juvenile Justice  
4   and Delinquency Prevention, the Administrator of the Ad-  
5   ministration for Children and Families, the Administrator  
6   of the Centers for Medicare & Medicaid Services, and the  
7   Assistant Secretary of Education for Special Education,  
8   shall establish and staff a task force to examine problems  
9   of mental health in the child welfare and juvenile justice  
10   systems and issues with respect to access by children and  
11   youth to mental health services, and the role of their agen-  
12   cies in promoting access by children and youth to mental  
13   health services.

14           “(b) DUTIES.—The task force established under sub-  
15   section (a) shall—

16               “(1) work with mental health and child advo-  
17           cates, representatives of families of eligible children  
18           and youth, and representatives of State systems of  
19           care to make recommendations to Congress con-  
20           cerning strategies to improve the delivery of mental  
21           health services, including prevention services, to chil-  
22           dren and youth with serious emotional disturbances,  
23           including those who are at risk of dropping out of  
24           school or at risk of coming in contact with child wel-  
25           fare and juvenile justice systems;

1           “(2) work with mental health and child advo-  
2       cates, representatives of families of eligible children  
3       and youth, and representatives of State systems of  
4       care to develop improved reporting requirements for  
5       States concerning the number of children and youth  
6       entering child welfare and juvenile justice systems  
7       solely to access mental health services;

8           “(3) in consultation with States and appro-  
9       priate stakeholders, create standard definitions for  
10      the categories of data to be collected on such chil-  
11      dren and youth;

12          “(4) foster interagency cooperation to eliminate  
13      the practice of custody relinquishment;

14          “(5) provide advice to the Administrator in im-  
15      plementation of the family support grant programs  
16      under section 597;

17          “(6) coordinate and deliver technical assistance  
18      to States and State agencies to help implement pro-  
19      grams under such grant program;

20          “(7) make recommendations to break down bar-  
21      riers to coordination in existing Federal programs  
22      and to allow for more effective integration across  
23      agencies and programs; and

24          “(8) provide a biannual report to Congress on  
25      its recommendations and its progress in carrying out

1 its duties, ending the practice of parents relin-  
 2 quishing legal custody of their children with serious  
 3 emotional disturbances in order to obtain mental  
 4 health services, and improving the delivery of mental  
 5 health services to children with serious emotional  
 6 disturbances.

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
 8 are authorized to be appropriated to carry out this section,  
 9 \$1,000,000 for each of fiscal years 2004 through 2009.  
 10 Of the amount appropriate for each fiscal year under this  
 11 subsection, 60 percent of such amount shall be made avail-  
 12 able to the Secretary, 20 percent of such amount shall  
 13 be made available to the Attorney General, and 20 percent  
 14 of such amount shall be made available to the Secretary  
 15 of Education.”.

16 **SEC. 4. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**  
 17 **PITAL SERVICES FOR INDIVIDUALS UNDER**  
 18 **AGE 21 IN HOME OR COMMUNITY-BASED**  
 19 **SERVICES WAIVERS.**

20 (a) IN GENERAL.—Section 1915(c) of the Social Se-  
 21 curity Act (42 U.S.C. 1396n(c)) is amended—

22 (1) in paragraph (1)—

23 (A) in the first sentence, by inserting “, or  
 24 would require inpatient psychiatric hospital  
 25 services for individuals under age 21,” after

1 “intermediate care facility for the mentally re-  
2 tarded”; and

3 (B) in the second sentence, by inserting “,  
4 or would require inpatient psychiatric hospital  
5 services for individuals under age 21” before  
6 the period;

7 (2) in paragraph (2)(B), by striking “or serv-  
8 ices in an intermediate care facility for the mentally  
9 retarded” each place it appears and inserting “serv-  
10 ices in an intermediate care facility for the mentally  
11 retarded, or inpatient psychiatric hospital services  
12 for individuals under age 21”;

13 (3) in paragraph (2)(C)—

14 (A) by inserting “, or who are determined  
15 to be likely to require inpatient psychiatric hos-  
16 pital services for individuals under age 21,”  
17 after “, or intermediate care facility for the  
18 mentally retarded”; and

19 (B) by striking “or services in an inter-  
20 mediate care facility for the mentally retarded”  
21 and inserting “services in an intermediate care  
22 facility for the mentally retarded, or inpatient  
23 psychiatric hospital services for individuals  
24 under age 21”; and

25 (4) in paragraph (7)(A)—

1           (A) by inserting “or would require inpa-  
2           tient psychiatric hospital services for individuals  
3           under age 21,” after “intermediate care facility  
4           for the mentally retarded,”; and

5           (B) by inserting “or who would require in-  
6           patient psychiatric hospital services for individ-  
7           uals under age 21” before the period.

8       (b) EFFECTIVE DATE.—The amendments made by  
9       subsection (a) apply with respect to medical assistance  
10      provided on or after January 1, 2004.

○