

108TH CONGRESS
2D SESSION

S. 2779

To improve protections for children and to hold States accountable for the orderly and timely placement of children across State lines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2004

Mr. DOMENICI (for himself and Mrs. LINCOLN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To improve protections for children and to hold States accountable for the orderly and timely placement of children across State lines, and for other purposes.

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 “Orderly and Timely
5 Interstate Placement of Foster Children Act of 2004”.

6 **SEC. 2. SENSE OF THE CONGRESS.**

7 (a) FINDING.—The Congress finds that the Inter-
8 state Compact on the Placement of Children (ICPC) was

1 drafted more than 40 years ago, is outdated, and is a bar-
 2 rier to the timely placement of children across State lines.

3 (b) SENSE OF THE CONGRESS.—It is the sense of
 4 the Congress that the States should expeditiously revise
 5 the ICPC to better serve the interests of children and re-
 6 duce unnecessary work, and that the revision should in-
 7 clude—

8 (1) limiting its applicability to children in foster
 9 care under the responsibility of a State, except those
 10 seeking placement in a residential facility primarily
 11 to access clinical mental health services; and

12 (2) providing for deadlines for the completion
 13 and approval of home studies as set forth in section
 14 4.

15 **SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE**
 16 **PLACEMENT OF CHILDREN.**

17 Section 471(a) of the Social Security Act (42 U.S.C.
 18 671(a)) is amended—

19 (1) by striking “and” at the end of paragraph
 20 (23);

21 (2) by striking the period at the end of para-
 22 graph (24) and inserting “; and”; and

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

24 “(25) provides that the State shall have in ef-
 25 fect procedures for the orderly and timely interstate

1 placement of children; and procedures implemented
 2 in accordance with an interstate compact approved
 3 by the Secretary, if incorporating the procedures
 4 prescribed by paragraph (26), shall be considered to
 5 satisfy the requirement of this paragraph.”.

6 **SEC. 4. HOME STUDIES.**

7 (a) ORDERLY PROCESS.—

8 (1) IN GENERAL.—Section 471(a) of the Social
 9 Security Act (42 U.S.C. 671(a)) is further amend-
 10 ed—

11 (A) by striking “and” at the end of para-
 12 graph (24);

13 (B) by striking the period at the end of
 14 paragraph (25) and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(26) provides that—

17 “(A) within 60 days after the State re-
 18 ceives from another State a request to conduct
 19 a study of a home environment for purposes of
 20 assessing the appropriateness of placing a child
 21 in the home, the State shall, directly or by con-
 22 tract—

23 “(i) conduct and complete the study;

24 and

1 “(ii) return to the other State a re-
2 port on the results of the study, which
3 shall address the extent to which place-
4 ment in the home would meet the needs of
5 the child;

6 “(B) the State shall treat any report de-
7 scribed in subparagraph (A) that is received
8 from another State (or from a private agency
9 under contract with another State) as meeting
10 any requirements imposed by the State for the
11 completion of a home study before placing a
12 child in the home, unless, within 7 days after
13 receipt of the report, the State determines,
14 based on grounds that are specific to the con-
15 tent of the report, that making a decision in re-
16 liance on the report would be contrary to the
17 welfare of the child; and

18 “(C) the State shall not impose any re-
19 striction on the ability of a State agency admin-
20 istering, or supervising the administration of, a
21 State program operated under a State plan ap-
22 proved under this part to contract with a pri-
23 vate agency for the conduct of a home study de-
24 scribed in subparagraph (A).”.

1 (2) SENSE OF THE CONGRESS.—It is the sense
2 of the Congress that each State should—

3 (A) use private agencies to conduct home
4 studies when doing so is necessary to meet the
5 requirements of section 471(a)(26) of the Social
6 Security Act; and

7 (B) give full faith and credit to any home
8 study report completed by any other State with
9 respect to the placement of a child in foster
10 care or for adoption.

11 (b) TIMELY INTERSTATE HOME STUDY INCENTIVE
12 PAYMENTS.—Part E of title IV of the Social Security Act
13 (42 U.S.C. 670–679b) is amended by inserting after sec-
14 tion 473A the following:

15 **“SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE**
16 **PAYMENTS.**

17 “(a) GRANT AUTHORITY.—The Secretary shall make
18 a grant to each State that is a home study incentive-eli-
19 gible State for a fiscal year in an amount equal to the timely
20 interstate home study incentive payment payable to the
21 State under this section for the fiscal year, which shall
22 be payable in the immediately succeeding fiscal year.

23 “(b) HOME STUDY INCENTIVE-ELIGIBLE STATE.—
24 A State is a home study incentive-eligible State for a fiscal
25 year if—

1 “(1) the State has a plan approved under this
2 part for the fiscal year;

3 “(2) the State is in compliance with subsection
4 (c) for the fiscal year; and

5 “(3) based on data submitted and verified pur-
6 suant to subsection (c), the State has completed a
7 timely interstate home study during the fiscal year.

8 “(c) DATA REQUIREMENTS.—

9 “(1) IN GENERAL.—A State is in compliance
10 with this subsection for a fiscal year if the State has
11 provided to the Secretary a written report, covering
12 the preceding fiscal year, that specifies—

13 “(A) the total number of interstate home
14 studies requested by the State with respect to
15 children in foster care under the responsibility
16 of the State, and with respect to each such
17 study, the identity of the other State involved;
18 and

19 “(B) the total number of timely interstate
20 home studies completed by the State with re-
21 spect to children in foster care under the re-
22 sponsibility of other States, and with respect to
23 each such study, the identity of the other State
24 involved.

1 “(2) VERIFICATION OF DATA.—In determining
 2 the number of timely interstate home studies to be
 3 attributed to a State under this section, the Sec-
 4 retary shall check the data provided by the State
 5 under paragraph (1) against complementary data so
 6 provided by other States.

7 “(d) TIMELY INTERSTATE HOME STUDY INCENTIVE
 8 PAYMENTS.—

9 “(1) IN GENERAL.—Except as provided in para-
 10 graph (2) of this subsection, the timely interstate
 11 home study incentive payment payable to a State for
 12 a fiscal year shall be \$1,000, multiplied by the num-
 13 ber of timely interstate home studies attributed to
 14 the State under this section during the fiscal year.

15 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
 16 FUNDS AVAILABLE.—If the total amount of timely
 17 interstate home study incentive payments otherwise
 18 payable under this section for a fiscal year exceeds
 19 the total of the amounts made available pursuant to
 20 subsection (h) for the fiscal year, the amount of
 21 each such otherwise payable incentive payment shall
 22 be reduced by a percentage equal to—

23 “(A) the total of the amounts so made
 24 available; divided by

1 “(B) the total of such otherwise payable
2 incentive payments.

3 “(e) 2-YEAR AVAILABILITY OF INCENTIVE PAY-
4 MENTS.—Payments to a State under this section in a fis-
5 cal year shall remain available for use by the State
6 through the end of the next fiscal year.

7 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
8 MENTS.—A State shall not expend an amount paid to the
9 State under this section except to provide to children or
10 families any service (including post-adoption services) that
11 may be provided under part B or E. Amounts expended
12 by a State in accordance with the preceding sentence shall
13 be disregarded in determining State expenditures for pur-
14 poses of Federal matching payments under sections 423,
15 434, and 474.

16 “(g) DEFINITIONS.—In this section:

17 “(1) HOME STUDY.—The term ‘home study’
18 means a study of a home environment, conducted in
19 accordance with applicable requirements of the State
20 in which the home is located, for the purpose of as-
21 sessing whether placement of a child in the home
22 would be appropriate for the child.

23 “(2) INTERSTATE HOME STUDY.—The term
24 ‘interstate home study’ means a home study con-
25 ducted by a State at the request of another State,

1 to facilitate an adoptive or relative placement in the
2 State.

3 “(3) **TIMELY INTERSTATE HOME STUDY.**—The
4 term ‘timely interstate home study’ means an inter-
5 state home study completed by a State if the State
6 provides to the State that requested the study, with-
7 in 30 days after receipt of the request, a report on
8 the results of the study.

9 “(h) **LIMITATIONS ON AUTHORIZATION OF APPRO-**
10 **PRIATIONS.**—

11 “(1) **IN GENERAL.**—For grants under sub-
12 section (a), there are authorized to be appropriated
13 to the Secretary \$10,000,000 for fiscal year 2005.

14 “(2) **AVAILABILITY.**—Amounts appropriated
15 under paragraph (1) are authorized to remain avail-
16 able until expended.”.

17 (c) **REPEALER.**—Effective October 1, 2008, section
18 473B of the Social Security Act is repealed.

19 **SEC. 5. REQUIREMENT TO CHECK CHILD ABUSE REG-**
20 **ISTRIES; OPT-OUT ELIMINATED.**

21 Section 471(a)(20) of the Social Security Act (42
22 U.S.C. 671(a)(20)) is amended—

23 (1) in subparagraph (A), by striking “unless an
24 election provided for in subparagraph (B) is made
25 with respect to the State,”; and

1 (2) by striking subparagraph (B) and inserting
2 the following:

3 “(B) provides that the State shall—

4 “(i) check any child abuse and neglect
5 registry maintained by the State for infor-
6 mation on any prospective foster or adop-
7 tive parent and on any other adult living in
8 the home of such a prospective parent, and
9 request any other State in which any such
10 prospective parent or other adult has re-
11 sided in the preceding 5 years, to enable
12 the State to check any child abuse and ne-
13 glect registry maintained by such other
14 State for such information, before the pro-
15 spective foster or adoptive parent may be
16 finally approved for placement of a child,
17 regardless of whether foster care mainte-
18 nance payments or adoption assistance
19 payments are to be made on behalf of the
20 child under the State plan under this part;

21 “(ii) comply with any request de-
22 scribed in clause (i) that is received from
23 another State; and

24 “(iii) have in place safeguards to pre-
25 vent the unauthorized disclosure of infor-

1 mation in any child abuse and neglect reg-
 2 istry maintained by the State, and to pre-
 3 vent any such information obtained pursu-
 4 ant to this subparagraph from being used
 5 for a purpose other than the conducting of
 6 background checks in foster or adoptive
 7 placement cases;”.

8 **SEC. 6. COURTS ALLOWED ACCESS TO THE FEDERAL PAR-**
 9 **ENT LOCATOR SERVICE TO LOCATE PARENTS**
 10 **IN FOSTER CARE OR ADOPTIVE PLACEMENT**
 11 **CASES.**

12 Section 453(c) of the Social Security Act (42 U.S.C.
 13 653(c)) is amended—

14 (1) by striking “and” at the end of paragraph

15 (3);

16 (2) by striking the period and inserting “;

17 and”; and

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

19 “(5) any court which has authority with respect

20 to the placement of a child in foster care or for

21 adoption, but only for the purpose of locating a par-

22 ent of the child.”.

23 **SEC. 7. CASEWORKER VISITS.**

24 (a) **PURCHASE OF SERVICES IN INTERSTATE PLACE-**
 25 **MENT CASES.**—Section 475(5)(A)(ii) of the Social Secu-

1 rity Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
 2 “or of the State in which the child has been placed” and
 3 inserting “of the State in which the child has been placed,
 4 or of a private agency under contract with either such
 5 State”.

6 (b) INCREASED VISITS.—Section 475(5)(A)(ii) of
 7 such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
 8 “12” and inserting “6”.

9 **SEC. 8. HEALTH AND EDUCATION RECORDS.**

10 Section 475 of the Social Security Act (42 U.S.C.
 11 675) is amended—

12 (1) in paragraph (1)(C)—

13 (A) by striking “To the extent available
 14 and accessible, the” and inserting “The”; and

15 (B) by inserting “the most recent informa-
 16 tion available regarding” after “including”; and

17 (2) in paragraph (5)(D)—

18 (A) by inserting “a copy of the record is”
 19 before “supplied”; and

20 (B) by inserting “, and is supplied to the
 21 child at the time the child leaves foster care if
 22 the child is leaving foster care by reason of hav-
 23 ing attained the age of majority under State
 24 law” before the semicolon.

1 **SEC. 9. RIGHT TO BE HEARD IN FOSTER CARE PRO-**
 2 **CEEDINGS.**

3 (a) IN GENERAL.—Section 475(5)(G) of the Social
 4 Security Act (42 U.S.C. 675(5)(G)) is amended—

5 (1) by striking “an opportunity” and inserting
 6 “a right”;

7 (2) by striking “and opportunity” and inserting
 8 “and right”; and

9 (3) by striking “review or hearing” each place
 10 it appears and inserting “proceeding”.

11 (b) NOTICE OF PROCEEDING.—Section 438(b) of
 12 such Act (42 U.S.C. 638(b)) is amended by inserting
 13 “shall have in effect a rule requiring State courts to notify
 14 foster parents, pre-adoptive parents, and relative care-
 15 givers of a child in foster care under the responsibility of
 16 the State of any proceeding to be held with respect to the
 17 child, and” after “highest State court”.

18 **SEC. 10. REASONABLE EFFORTS.**

19 (a) IN GENERAL.—Section 471(a)(15)(C) of the So-
 20 cial Security Act (42 U.S.C. 671(a)(15)(C)) is amended
 21 by inserting “(including, if appropriate, through an inter-
 22 state placement)” after “accordance with the permanency
 23 plan”.

24 (b) PERMANENCY HEARING.—Section
 25 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i))
 26 is amended by inserting “, which considers in-State and

1 out-of-State permanent placement options for the child,”
 2 before “shall”.

3 (c) CONCURRENT PLANNING.—Section
 4 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is
 5 amended by inserting “, including identifying appropriate
 6 out-of-State relatives and placements” before “may”.

7 **SEC. 11. CASE PLANS.**

8 Section 475(1)(E) of the Social Security Act (42
 9 U.S.C. 675(1)(E)) is amended by inserting “to facilitate
 10 orderly and timely interstate placements” before the pe-
 11 riod.

12 **SEC. 12. CASE REVIEW SYSTEM.**

13 Section 475(5)(C) of the Social Security Act (42
 14 U.S.C. 675(5)(C)) is amended—

15 (1) by inserting “, in the case of a child who
 16 will not be returned to the parent, the hearing shall
 17 consider in-State and out-of-State placement op-
 18 tions,” after “living arrangement”; and

19 (2) by inserting “the hearing shall determine”
 20 before “whether the”.

21 **SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.**

22 Section 422(b)(12) of the Social Security Act (42
 23 U.S.C. 622(b)(12)) is amended—

24 (1) by striking “develop plans for the” and in-
 25 serting “make”;

- 1 (2) by inserting “(including through contracts
2 for the purchase of services)” after “resources”; and
3 (3) by inserting “, and shall eliminate legal bar-
4 riers,” before “to facilitate”.

5 **SEC. 14. GAO STUDY ON CHILD WELFARE BACKGROUND**
6 **CHECKS.**

7 (a) STUDY.—The Comptroller General of the United
8 States shall conduct a study of background checks that
9 are performed for the purpose of determining the appro-
10 priateness of placing in a foster or adoptive home a child
11 who is under the custody of a State. The study shall re-
12 view the policies and practices of States in order to—

13 (1) identify the most common delays in the
14 background clearance process and where in the proc-
15 ess the delays occur;

16 (2) describe when background checks are initi-
17 ated;

18 (3) determine which of local, State, or Federal
19 (such as FBI) background checks are used, how
20 long it takes, on average, for each kind of check to
21 be processed, which crimes or other events are in-
22 cluded in each kind of check, how the States differ
23 in classifying the crimes and other events checked,
24 and how the information revealed by the checks is

1 used in determining eligibility to act as a foster or
2 adoptive parent;

3 (4) examine the barriers child welfare agencies
4 face in accessing criminal background check infor-
5 mation;

6 (5) examine the use of the latest information-
7 sharing technology, including electronic
8 fingerprinting and participation in the Integrated
9 Automated Fingerprinting Information System;

10 (6) identify the varied uses of such technology
11 for child welfare purposes as opposed to criminal
12 justice purposes; and

13 (7) recommend best practices that can increase
14 the speed, efficiency, and accuracy of child welfare
15 background checks at all levels of government.

16 (b) REPORT TO THE CONGRESS.—Within 12 months
17 after the date of the enactment of this Act, the Comp-
18 troller General of the United States shall submit to the
19 Committees on Ways and Means and on Education and
20 the Workforce of the House of Representatives and the
21 Committees on Finance and on Health, Education, Labor,
22 and Pensions of the Senate a report which contains the
23 results of the study required by subsection (a).

1 **SEC. 15. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), the amendments made by this Act shall take effect
4 on October 1, 2004, and shall apply to payments under
5 parts B and E of title IV of the Social Security Act for
6 calendar quarters beginning on or after such date, without
7 regard to whether regulations to implement the amend-
8 ments are promulgated by such date.

9 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
10 QUIRED.—If the Secretary of Health and Human Services
11 determines that State legislation (other than legislation
12 appropriating funds) is required in order for a State plan
13 under part B or E of title IV of the Social Security Act
14 to meet the additional requirements imposed by the
15 amendments made by this Act, the plan shall not be re-
16 garded as failing to meet any of the additional require-
17 ments before the 1st day of the 1st calendar quarter be-
18 ginning after the first regular session of the State legisla-
19 ture that begins after the date of the enactment of this
20 Act. If the State has a 2-year legislative session, each year
21 of the session is deemed to be a separate regular session
22 of the State legislature.

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