

108TH CONGRESS
1ST SESSION

S. 862

To promote the adoption of children with special needs.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2003

Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To promote the adoption of children with special needs.

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 “Adoption Equality Act
5 of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) In 1997, Congress enacted the Adoption
9 and Safe Families Act of 1997 (Public Law 105–89;
10 111 Stat. 2115), clearly stating that a child’s health

1 and safety are paramount, and that each child de-
 2 serves a permanent home.

3 (2) The Adoption and Safe Families Act of
 4 1997 provides incentives for adoptions, and adop-
 5 tions from foster care since its enactment in 1997
 6 through 2002 have nearly doubled.

7 (3) Despite the increase in adoptions, in 2003
 8 approximately 131,000 children in foster care have
 9 the permanency goal of adoption but are still waiting
 10 to be adopted.

11 **SEC. 3. PROMOTION OF ADOPTION OF CHILDREN WITH**
 12 **SPECIAL NEEDS.**

13 (a) IN GENERAL.—Section 473(a) of the Social Secu-
 14 rity Act (42 U.S.C. 673(a)) is amended by striking para-
 15 graph (2) and inserting the following:

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

18 “(i)(I) at the time of termination of parental
 19 rights was in the care of a public or licensed private
 20 child placement agency or Indian tribal organization
 21 pursuant to a voluntary placement agreement, relin-
 22 quishment, or involuntary removal of the child from
 23 the home, and the State has determined, pursuant
 24 to criteria established by the State (which may, but
 25 need not, include a judicial determination), that con-

1 continuation in the home would be contrary to the safe-
2 ty or welfare of such child;

3 “(II) meets all medical or disability require-
4 ments of title XVI with respect to eligibility for sup-
5 plemental security income benefits; or

6 “(III) was residing in a foster family home or
7 child care institution with the child’s minor parent
8 (pursuant to a voluntary placement agreement, relin-
9 quishment, or involuntary removal of the child from
10 the home, and the State has determined, pursuant
11 to criteria established by the State (which may, but
12 need not, include judicial determination), that con-
13 tinuation in the home would be contrary to the safe-
14 ty or welfare of such child); and

15 “(ii) has been determined by the State, pursu-
16 ant to subsection (c), to be a child with special
17 needs, which needs shall be considered by the State,
18 together with the circumstances of the adopting par-
19 ents, in determining the amount of any payments to
20 be made to the adopting parents.

21 “(B) Notwithstanding any other provision of law, and
22 except as provided in paragraph (7), a child who is not
23 a citizen or resident of the United States and who meets
24 the requirements of subparagraph (A) shall be treated as

1 meeting the requirements of this paragraph for purposes
2 of paragraph (1)(B)(ii).

3 “(C) A child who meets the requirements of subpara-
4 graph (A), who was determined eligible for adoption as-
5 sistance payments under this part with respect to a prior
6 adoption (or who would have been determined eligible for
7 such payments had the Adoption and Safe Families Act
8 of 1997 been in effect at the time that such determination
9 would have been made), and who is available for adoption
10 because the prior adoption has been dissolved and the pa-
11 rental rights of the adoptive parents have been terminated
12 or because the child’s adoptive parents have died, shall be
13 treated as meeting the requirements of this paragraph for
14 purposes of paragraph (1)(B)(ii).”.

15 (b) EXCEPTION.—Section 473(a) of the Social Secu-
16 rity Act (42 U.S.C. 673(a)) is amended by adding at the
17 end the following:

18 “(7)(A) Notwithstanding any other provision of this
19 subsection, no payment may be made to parents with re-
20 spect to any child that—

21 “(i) would be considered a child with special
22 needs under subsection (c);

23 “(ii) is not a citizen or resident of the United
24 States; and

1 “(iii) was adopted outside of the United States
2 or was brought into the United States for the pur-
3 pose of being adopted.

4 “(B) Subparagraph (A) shall not be construed as pro-
5 hibiting payments under this part for a child described
6 in subparagraph (A) that is placed in foster care subse-
7 quent to the failure, as determined by the State, of the
8 initial adoption of such child by the parents described in
9 such subparagraph.”.

10 (c) REQUIREMENT FOR USE OF STATE SAVINGS.—
11 Section 473(a) of the Social Security Act (42 U.S.C.
12 673(a)), as amended by subsection (b), is amended by
13 adding at the end the following:

14 “(8) A State shall spend an amount equal to the
15 amount of savings (if any) in State expenditures under
16 this part resulting from the application of paragraph (2)
17 on and after the effective date of the amendment to such
18 paragraph made by section 3(a) of the Adoption Equality
19 Act of 2003 to provide to children or families any service
20 (including post-adoption services) that may be provided
21 under this part or part B.”.

22 (d) DETERMINATION OF A CHILD WITH SPECIAL
23 NEEDS.—Section 473(c) of the Social Security Act (42
24 U.S.C. 673(c)) is amended to read as follows:

1 “(c) For purposes of this section, a child shall not
2 be considered a child with special needs unless—

3 “(1)(A) the State has determined, pursuant to
4 a criteria established by the State (which may or
5 may not include a judicial determination), that the
6 child cannot or should not be returned to the home
7 of his parents; or

8 “(B) the child meets all medical or disability re-
9 quirements of title XVI with respect to eligibility for
10 supplemental security income benefits; and

11 “(2) the State has determined—

12 “(A) that there exists with respect to the
13 child a specific factor or condition (such as eth-
14 nic background, age, or membership in a minor-
15 ity or sibling group, or the presence of factors
16 such as medical conditions or physical, mental,
17 or emotional handicaps) because of which it is
18 reasonable to conclude that the child cannot be
19 placed with adoptive parents without providing
20 adoption assistance under this section and med-
21 ical assistance under title XIX; and

22 “(B) that except where it would be against
23 the best interests of the child because of such
24 factors as the existence of significant emotional
25 ties with prospective adoptive parents while in

1 the care of such parents as a foster child, a rea-
2 sonable, but unsuccessful, effort has been made
3 to place the child with appropriate adoptive
4 parents without providing adoption assistance
5 under this section or medical assistance under
6 title XIX.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on October 1, 2003.

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