

109TH CONGRESS
1ST SESSION

H. R. 3379

To amend part E of title IV of the Social Security Act to promote safe and permanent homes for foster children.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2005

Mr. DAVIS of Illinois introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend part E of title IV of the Social Security Act to promote safe and permanent homes for foster 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 “Stronger Families
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) By enacting the Adoption and Safe Families
9 Act of 1997 (Public Law 105–89) and the Adoption
10 Assistance and Child Welfare Act of 1980 (Public

1 Law 96–272), the Congress recognized the need to
2 align Federal incentives with the desired goal of pro-
3 viding abused and neglected children safe, perma-
4 nent homes.

5 (2) According to the nonpartisan Pew Commis-
6 sion on Children in Foster Care composed of former
7 Members of Congress of both parties and other child
8 welfare experts, between 1997 and 2002, adoptions
9 increased by 64 percent, and each state, the District
10 of Columbia, and Puerto Rico has earned an award
11 for increasing adoptions.

12 (3) Adoption represents only one avenue to per-
13 manency for children in the foster care system, af-
14 fecting only 9 percent of children in foster care in
15 2003. Adoption is not a viable option for many chil-
16 dren in foster care. Children living with relatives are
17 less likely to use adoption, and courts explicitly rule
18 out this permanency option for thousands of children
19 each year.

20 (4) Moreover, adoption is not equally available
21 to children of all races and ethnicities. African-
22 American children live in kinship care arrangements
23 more than in other types of care arrangements and
24 have a lower rate of adoption than other children,

1 making reunification and legal guardianship impor-
2 tant permanency options for this population.

3 (5) Reunification and guardianship are central
4 avenues by which any child in foster care may enter
5 stable, caring homes. In 2002, 54 percent of chil-
6 dren in foster care were reunified with their parents
7 and 4 percent obtained legal guardianship.

8 (6) Moreover, Federal guidelines create a finan-
9 cial disincentive to legal guardianship because all
10 Federal support ceases once guardianship is estab-
11 lished, presenting an overwhelming hardship for
12 caretakers given the known health and mental health
13 problems of children who have been in foster care.
14 Research indicates that 30 to 40 percent of youth in
15 foster care experience chronic medical problems.

16 (7) To help meet the needs of foster children
17 with special needs who are adopted, approximately
18 \$308 per month in Federal funds is provided to
19 their adoptive families. The Federal Government
20 pays approximately \$383 per month to cover all
21 adoption assistance program costs, including month-
22 ly payments to families, administration, and train-
23 ing.

24 (8) Remaining in foster care when stable, per-
25 manent homes are available places unnecessary bur-

1 dens on States, caseworkers, and families, requiring
2 regular court appearances, quarterly case reviews,
3 monthly caseworker visits, and government involve-
4 ment in routine family activities and decisions.

5 **SEC. 3. PERMANENCY INCENTIVE PAYMENTS.**

6 (a) IN GENERAL.—Section 473A of the Social Secu-
7 rity Act (42 U.S.C. 673a) is amended to read as follows:

8 **“SEC. 473A. PERMANENCY INCENTIVE PAYMENTS.**

9 “(a) GRANT AUTHORITY.—Subject to the availability
10 of such amounts as may be provided in advance in appro-
11 priations Acts for this purpose, the Secretary shall make
12 a grant to each State that is an incentive-eligible State
13 for a fiscal year in an amount equal to the permanency
14 incentive payment payable to the State under this section
15 for the fiscal year, which shall be payable in the imme-
16 diately succeeding fiscal year.

17 “(b) INCENTIVE-ELIGIBLE STATE.—A State is an in-
18 centive-eligible State for a fiscal year if—

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

21 “(2)(A)(i) the foster child adoption rate for the
22 State for the fiscal year exceeds the base foster child
23 adoption rate for the State for the fiscal year; or

1 “(ii) the older child adoption rate for the State
2 for the fiscal year exceeds the base older child adop-
3 tion rate for the State for the fiscal year;

4 “(B)(i) the guardianship placement rate for the
5 State for the fiscal year exceeds the base guardian-
6 ship placement rate for the State for the fiscal year;
7 or

8 “(ii) the older child guardianship placement
9 rate for the State for the fiscal year exceeds the base
10 older child guardianship placement rate for the
11 State for the fiscal year; or

12 “(C) the reunification rate for the State for the
13 fiscal year exceeds the base reunification rate for the
14 State for respect to the fiscal year;

15 “(3) the State is in compliance with subsection
16 (c) for the fiscal year;

17 “(4) the State provides health insurance cov-
18 erage to any child with special needs (as determined
19 under section 473(c)) for whom there is in effect—

20 “(A) an adoption assistance agreement be-
21 tween a State and the adoptive parent or par-
22 ents of the child; or

23 “(B) a guardianship agreement between a
24 State and the legal guardian or guardians of
25 the child; and

1 “(5) the fiscal year is fiscal year 2006 or 2007.

2 “(c) DATA REQUIREMENTS.—

3 “(1) IN GENERAL.—A State is in compliance
4 with this subsection for a fiscal year if the State has
5 provided to the Secretary the data described in para-
6 graph (2)—

7 “(A) for fiscal years 2004 and 2005 (or, if
8 the 1st fiscal year for which the State seeks a
9 grant under this section is after fiscal year
10 2006, the 2 fiscal years most immediately pre-
11 ceding such 1st fiscal year); and

12 “(B) for each fiscal year that succeeds the
13 2 fiscal years specified or referred to in sub-
14 paragraph (A) and that precedes the fiscal year
15 referred to in this paragraph in the matter pre-
16 ceding subparagraph (A).

17 “(2) DETERMINATION OF PERMANENCY PLACE-
18 MENT RATES BASED ON AFCARS DATA.—The Sec-
19 retary shall determine the rates of each type of
20 adoption, guardianship placement, and reunification
21 described in this section in each State with respect
22 to each of fiscal years 2006 and 2007 on the basis
23 of data meeting the requirements of the system es-
24 tablished pursuant to section 479, as reported by the

1 State and approved by the Secretary by August 1 of
2 the succeeding fiscal year.

3 “(3) NO WAIVER OF AFCARS REQUIREMENTS.—

4 This section shall not be construed to alter or affect
5 any requirement of section 479 or of any regulation
6 prescribed under such section with respect to report-
7 ing of data by States, or to waive any penalty for
8 failure to comply with such a requirement.

9 “(d) PERMANENCY INCENTIVE PAYMENT.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), the permanency incentive payment pay-
12 able to a State for a fiscal year under this section
13 shall be equal to the sum of—

14 “(A) \$3,000, multiplied by the amount (if
15 any) by which the sum of the number of foster
16 child adoptions, the number of guardianship
17 placements, and the number of reunifications
18 for the State for the fiscal year exceeds the sum
19 of—

20 “(i) the number of foster child adop-
21 tions for the State for the fiscal year mul-
22 tiplied by the base foster child adoption
23 rate for the State for the fiscal year;

24 “(ii) the number of guardianship
25 placements for the State for the fiscal year

1 multiplied by the base guardianship place-
2 ment rate for the State for the fiscal year;
3 and

4 “(iii) the number of reunifications for
5 the State for the fiscal year multiplied by
6 the base reunification rate for the State for
7 the fiscal year;

8 “(B) \$1,500, multiplied by the amount (if
9 any) by which the sum of the number of special
10 needs adoptions that are not older child adop-
11 tions and the number of special needs guardian-
12 ship placements that are not older child guard-
13 ianship placements for the State for the fiscal
14 year exceeds the sum of—

15 “(i) the number of special needs adop-
16 tions that are not older child adoptions for
17 the State for the fiscal year, multiplied by
18 the base rate of special needs adoptions
19 that are not older child adoptions for the
20 State for the fiscal year; and

21 “(ii) the number of special needs
22 guardianship placements that are not older
23 child guardianship placements for the
24 State for the fiscal year, multiplied by the
25 base rate of special needs guardianship

1 placements that are not older child guard-
2 ianship placements for the State for the
3 fiscal year; and

4 “(C) \$3,000, multiplied by the amount (if
5 any) by which the sum of the number of older
6 child adoptions and the number of older child
7 guardianship placements for the State for the
8 fiscal year exceeds the sum of—

9 “(i) the number of older child adop-
10 tions for the State for the fiscal year,
11 multiplied by the base older child adoption
12 rate for the State for the fiscal year; and

13 “(ii) the number of older child guard-
14 ianship placements for the State for the
15 fiscal year, multiplied by the base older
16 child guardianship placement rate for the
17 State for the fiscal year.

18 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
19 FUNDS AVAILABLE.—For any fiscal year, if the total
20 amount of permanency incentive payments otherwise
21 payable under this section for a fiscal year exceeds
22 the amount appropriated pursuant to subsection (h)
23 for the fiscal year, the amount of the permanency
24 incentive payment payable to each State under this
25 section for the fiscal year shall be—

1 “(A) the amount of the permanency incen-
2 tive payment that would otherwise be payable to
3 the State under this section for the fiscal year;
4 multiplied by

5 “(B) the percentage represented by the
6 amount so appropriated for the fiscal year, di-
7 vided by the total amount of permanency incen-
8 tive payments otherwise payable under this sec-
9 tion for the fiscal year.

10 “(e) 2-YEAR AVAILABILITY OF INCENTIVE PAY-
11 MENTS.—Payments to a State under this section in a fis-
12 cal year shall remain available for use by the State
13 through the end of the succeeding fiscal year.

14 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
15 MENTS.—A State shall not expend an amount paid to the
16 State under this section except to provide to children or
17 families any service (including post-permanency services)
18 that may be provided under part B or E. Amounts ex-
19 pended by a State in accordance with the preceding sen-
20 tence shall be disregarded in determining State expendi-
21 tures for purposes of Federal matching payments under
22 sections 423, 434, and 474.

23 “(g) DEFINITIONS.—In this section:

1 “(1) FOSTER CHILD ADOPTION.—The term
2 ‘foster child adoption’ means, with respect to a State
3 and a fiscal year, a final adoption of a child if—

4 “(A) at the time of adoptive placement, the
5 child was in foster care under the supervision of
6 the State; and

7 “(B) during the fiscal year, the period for
8 which the adoption has lasted has become 12
9 months.

10 “(2) SPECIAL NEEDS ADOPTION.—The term
11 ‘special needs adoption’ means, with respect to a
12 State and a fiscal year, a final adoption of a child
13 if—

14 “(A) there is in effect for the child an
15 adoption assistance agreement entered into by
16 the State under section 473;

17 “(B) the child is a child with special needs
18 for purposes of this section; and

19 “(C) during the fiscal year, the period for
20 which the adoption has lasted has become 12
21 months.

22 “(3) OLDER CHILD ADOPTION.—The term
23 ‘older child adoption’ means, with respect to a State
24 and a fiscal year, the final adoption in the State of
25 a child who has attained 9 years of age if—

1 “(A)(i) at the time of the adoptive place-
2 ment, the child was in foster care under the re-
3 sponsibility of the State; or

4 “(ii) an adoption assistance agreement for
5 the child is in effect under section 473 with re-
6 spect to the child; and

7 “(B) during the fiscal year, the period for
8 which the adoption has lasted has become 12
9 months.

10 “(4) GUARDIANSHIP PLACEMENT.—The term
11 ‘guardianship placement’ means, with respect to a
12 State and a fiscal year, the placement of a child with
13 a caretaker pursuant to a legal guardianship if—

14 “(A) immediately before the placement, the
15 child had been in foster care under the respon-
16 sibility of the State for no less than 12 months;

17 “(B) the State has determined that neither
18 being returned home nor being adopted is an
19 appropriate permanency option for the child;
20 and

21 “(C) during the fiscal year, the period for
22 which the placement has lasted has become 12
23 months.

24 “(5) SPECIAL NEEDS GUARDIANSHIP PLACE-
25 MENT.—The term ‘special needs guardianship place-

1 ment' means, with respect to a fiscal year, a guard-
2 ianship placement, with respect to the fiscal year, of
3 a child with special needs.

4 “(6) OLDER CHILD GUARDIANSHIP PLACE-
5 MENT.—The term ‘older child guardianship place-
6 ment’ means, with respect to a State and a fiscal
7 year, a guardianship placement of a child who has
8 attained 9 years of age if, at the time of the guard-
9 ianship placement, the child was in foster care under
10 the supervision of the State.

11 “(7) REUNIFICATION.—The term ‘reunification’
12 means, with respect to a State and a fiscal year, the
13 reuniting of a child who is in foster care under the
14 responsibility of the State with the family from
15 whom the child was removed if—

16 “(A) immediately before the reuniting, the
17 child had been in such care for not less than 1
18 month; and

19 “(B) during the fiscal year, the period for
20 which the child has remained reunited with the
21 family has become 12 months

22 “(8) FOSTER CHILD ADOPTION RATE.—The
23 term ‘foster child adoption rate’ means, with respect
24 to a State and a fiscal year, of the children in foster
25 care under the responsibility of the State, the per-

1 centage who became subject to a foster child adop-
2 tion during the fiscal year.

3 “(9) BASE FOSTER CHILD ADOPTION RATE.—
4 The term ‘base foster child adoption rate’ means,
5 with respect to a State and—

6 “(A) fiscal year 2006, the foster child
7 adoption rate for the State for fiscal year 2005;
8 or

9 “(B) any subsequent fiscal year, the foster
10 child adoption rate for the State for the fiscal
11 year for which the rate is the greatest in the
12 period that begins with fiscal year 2005 and
13 ends with the fiscal year preceding that subse-
14 quent fiscal year.

15 “(10) OLDER CHILD ADOPTION RATE.—The
16 term ‘older child adoption rate’ means, with respect
17 to a State and a fiscal year, of the children in foster
18 care under the responsibility of the State, the per-
19 centage who—

20 “(A) have attained 9 years of age; and

21 “(B) became subject to an older child
22 adoption during the fiscal year.

23 “(11) BASE OLDER CHILD ADOPTION RATE.—
24 The term ‘base older child adoption rate’ means,
25 with respect to a State and—

1 “(A) fiscal year 2006, the older child adop-
2 tion rate for the State for fiscal year 2005; and

3 “(B) any subsequent fiscal year, the older
4 child adoption rate for the State for the fiscal
5 year for which the rate is the greatest in the
6 period that begins with fiscal year 2005 and
7 ends with the fiscal year preceding that subse-
8 quent fiscal year.

9 “(12) GUARDIANSHIP PLACEMENT RATE.—The
10 term ‘guardianship placement rate’ means, with re-
11 spect to a State and a fiscal year, of the children in
12 foster care under the responsibility of the State, the
13 percentage who became subject to a guardianship
14 placement during the fiscal year.

15 “(13) BASE GUARDIANSHIP PLACEMENT
16 RATE.—The term ‘base guardianship placement
17 rate’ means, with respect to a State and—

18 “(A) fiscal year 2006, the guardianship
19 placement rate for the State for fiscal year
20 2005; or

21 “(B) any subsequent fiscal year, the
22 guardianship placement rate for the State for
23 the fiscal year for which the rate is the greatest
24 in the period that begins with fiscal year 2005

1 and ends with the fiscal year preceding that
2 subsequent fiscal year.

3 “(14) OLDER CHILD GUARDIANSHIP PLACE-
4 MENT RATE.—The term ‘older child guardianship
5 placement rate’ means, with respect to a State and
6 a fiscal year, of the children in foster care under the
7 responsibility of the State, the percentage who—

8 “(A) have attained 9 years of age; and

9 “(B) during the fiscal year, became subject
10 to an older child guardianship placement.

11 “(15) BASE OLDER CHILD GUARDIANSHIP
12 PLACEMENT RATE.—The term ‘base older child
13 guardianship placement rate’ means, with respect to
14 a State and—

15 “(A) fiscal year 2006, the older child
16 guardianship placement rate for the State for
17 fiscal year 2005; or

18 “(B) any subsequent fiscal year, the older
19 child guardianship placement rate for the State
20 for the fiscal year for which the rate is the
21 greatest in the period that begins with fiscal
22 year 2005 and ends with the fiscal year pre-
23 ceding that subsequent fiscal year.

24 “(16) REUNIFICATION RATE.—The term ‘reuni-
25 fication rate’ means, with respect to a State and a

1 fiscal year, of the children in foster care under the
2 responsibility of the State, the percentage who be-
3 come subject to a reunification during the fiscal
4 year.

5 “(17) BASE REUNIFICATION RATE.—The term
6 ‘base reunification rate’ means, with respect to a
7 State and—

8 “(A) fiscal year 2006, the reunification
9 rate for the State for fiscal year 2005; or

10 “(B) any subsequent fiscal year, the reuni-
11 fication rate for the State for the fiscal year for
12 which the rate is the greatest in the period that
13 begins with fiscal year 2005 and ends with the
14 fiscal year preceding that subsequent fiscal
15 year.

16 “(18) BASE RATE OF SPECIAL NEEDS ADOP-
17 TIONS THAT ARE NOT OLDER CHILD ADOPTIONS.—
18 The term ‘base rate of special needs adoptions that
19 are not older child adoptions’ means, with respect to
20 a State and—

21 “(A) fiscal year 2006, the rate of special
22 needs adoptions that are not older child adop-
23 tions for the State for fiscal year 2005; or

24 “(B) any subsequent fiscal year, the rate
25 of special needs adoptions that are not older

1 child adoptions for the State for the fiscal year
2 for which the rate is the greatest in the period
3 that begins with fiscal year 2005 and ends with
4 the fiscal year preceding that subsequent fiscal
5 year.

6 “(19) RATE OF SPECIAL NEEDS ADOPTIONS
7 THAT ARE NOT OLDER CHILD ADOPTIONS.—The
8 term ‘rate of special needs adoptions that are not
9 older child adoptions’ means, with respect to a State
10 and a fiscal year, of the children in foster care under
11 the responsibility of the State, the percentage who—

12 “(A) are children with special needs;

13 “(B) have not attained 9 years of age; and

14 “(C) during the fiscal year, became subject
15 to a special needs adoption.

16 “(20) BASE RATE OF SPECIAL NEEDS GUARD-
17 IANSHIP PLACEMENTS THAT ARE NOT OLDER CHILD
18 GUARDIANSHIP PLACEMENTS.—The term ‘base rate
19 of special needs guardianship placements that are
20 not older child guardianship placements’ means,
21 with respect to a State and—

22 “(A) fiscal year 2006, the rate of special
23 needs guardianship placements that are not
24 older child guardianship placements for the
25 State for fiscal year 2005; or

1 “(B) any subsequent fiscal year, the rate
2 of special needs guardianship placements that
3 are not older child guardianship placements for
4 the State for the fiscal year for which the rate
5 is the greatest in the period that begins with
6 fiscal year 2005 and ends with the fiscal year
7 preceding that subsequent fiscal year.

8 “(21) CHILD WITH SPECIAL NEEDS.— For pur-
9 poses of this section, a child shall not be considered
10 a child with special needs unless—

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

14 “(B) the State had first determined that
15 there exists with respect to the child a specific
16 factor or condition (such as his ethnic back-
17 ground, age, or membership in a minority or
18 sibling group, or the presence of factors such as
19 medical conditions or physical, mental or emo-
20 tional handicaps) because of which it is reason-
21 able to conclude that such child cannot be
22 placed with ‘adoptive parents or’ a guardian
23 without providing medical assistance under title
24 XIX.

1 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
2 PRIATIONS.—

3 “(1) IN GENERAL.—For grants under sub-
4 section (a), there are authorized to be appropriated
5 to the Secretary \$43,000,000 for each of fiscal years
6 2006 through 2008.

7 “(2) AVAILABILITY.—Amounts appropriated
8 under paragraph (1), or under any other law for
9 grants under subsection (a), are authorized to re-
10 main available until expended, but not after fiscal
11 year 2008.

12 “(i) TECHNICAL ASSISTANCE.—

13 “(1) IN GENERAL.—The Secretary may, di-
14 rectly or through grants or contracts, provide tech-
15 nical assistance to assist States and local commu-
16 nities to reach their targets for increased rates of
17 adoptions, guardianships, and reunifications for chil-
18 dren in foster care.

19 “(2) DESCRIPTION OF THE CHARACTER OF THE
20 TECHNICAL ASSISTANCE.—The technical assistance
21 provided under paragraph (1) may support the goal
22 of encouraging more adoptions out of the foster care
23 system when adoptions promote the best interests of
24 children, and more permanency placements of other
25 kinds out of the foster care system when such other

1 kinds of placements promote the best interests of
2 children, and may include the following:

3 “(A) The development of best practice
4 guidelines for expediting termination of paren-
5 tal rights.

6 “(B) Models to encourage the use of con-
7 current planning.

8 “(C) The development of specialized units
9 and expertise in moving children toward adop-
10 tion, guardianship, or reunification as a perma-
11 nency goal through the use of established best
12 practices in these areas.

13 “(D) The development of risk assessment
14 tools to facilitate early identification of the chil-
15 dren who will be at risk of harm if returned
16 home.

17 “(E) Models to encourage the fast tracking
18 of children who have not attained 1 year of age
19 into pre-adoptive placements.

20 “(F) Development of programs that place
21 children into pre-adoptive families without wait-
22 ing for termination of parental rights.

23 “(3) TARGETING OF TECHNICAL ASSISTANCE
24 TO THE COURTS.—Not less than 50 percent of any
25 amount appropriated pursuant to paragraph (4)

1 shall be used to provide technical assistance to the
2 courts.

3 “(4) LIMITATIONS ON AUTHORIZATION OF AP-
4 PROPRIATIONS.—To carry out this subsection, there
5 are authorized to be appropriated to the Secretary
6 not to exceed \$10,000,000 for each of fiscal years
7 2006 and 2007.”.

8 (b) DETERMINATION OF WHETHER AFCARS CAN
9 BE USED TO PROVIDE DATA NECESSARY FOR CALCU-
10 LATING PERMANENCY INCENTIVE PAYMENTS; AUTHOR-
11 ITY TO PRESCRIBE ADDITIONAL REGULATIONS IF RE-
12 QUIRED.—The Secretary shall determine whether the sys-
13 tem established pursuant to section 479 of the Social Se-
14 curity Act is capable of being used to collect the data nec-
15 essary to enable permanency incentive payments to be cal-
16 culated under section 473A of such Act in a timely man-
17 ner, and if not, the Secretary shall prescribe such regula-
18 tions as may be necessary to make the system so capable.

19 (c) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on October 1, 2005.

○