

109TH CONGRESS
1ST SESSION

H. R. 3758

To improve foster care court capacity through grants, loan forgiveness, and performance measurement.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

Mr. SCHIFF introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce and Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve foster care court capacity through grants, loan forgiveness, and performance measurement.

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 “Fostering Our Future
5 Act of 2005”.

6 **SEC. 2. IMPROVEMENTS TO COURTS.**

7 (a) IN GENERAL.—Section 13712(b) of the Omnibus
8 Budget Reconciliation Act of 1993 (42 U.S.C. 629b) is
9 amended to read as follows:

1 “(b) ELIGIBILITY.—In order to be eligible for a grant
2 under this section:

3 “(1) APPLICATION.—A highest State court
4 shall submit to the Secretary an application at such
5 time, in such form, and including such information
6 and assurances as the Secretary shall require.

7 “(2) MEASURES OF COURT PERFORMANCE.—
8 There shall be in effect in the State such laws and
9 procedures as are necessary to ensure that the
10 courts of the State measure the following with re-
11 spect to children under the jurisdiction of the courts:

12 “(A) The percentage of children who do
13 not have a subsequent petition of maltreatment
14 filed in court after the initial such petition is
15 filed.

16 “(B) The percentage of children who are
17 the subject of additional allegations of maltreat-
18 ment within 12 months after the original peti-
19 tion was closed.

20 “(C) The percentages of children who
21 reach legal permanency within 6 months after
22 removal, within 12 months thereafter, within 18
23 months thereafter, and within 24 months there-
24 after.

1 “(D) The percentage of children who do
2 not reach permanency in the foster care system.

3 “(E) The percentages of children who re-
4 enter foster care pursuant to court order within
5 12 months after being returned to their fami-
6 lies, and within 24 months thereafter.

7 “(F) The percentages of children who re-
8 turn to foster care pursuant to court order
9 within 12 months after being adopted or placed
10 with an individual or couple who are permanent
11 guardians, and within 24 months thereafter.

12 “(G) The percentages of children who are
13 transferred among 1, 2, 3, or more placements
14 while under court jurisdiction, distinguishing,
15 where possible, between placements in and out
16 of a child’s own home from multiple placements
17 in a variety of environments.

18 “(H) The percentage of cases in which
19 both parents receive written service of process
20 within the required time standards or where no-
21 tice of hearing has been waived by parties.

22 “(I) The percentage of cases in which
23 there is documentation that timely and proper
24 notice is given to parties in advance of the next
25 hearing.

1 “(J) The percentage of cases in which chil-
2 dren who have attained 10 years of age receive
3 notice of the legal proceedings in their depend-
4 ency case; the percentage of cases in which chil-
5 dren who have attained 10 years of age are
6 present in court and afforded an opportunity to
7 be heard in their own cases; and the percentage
8 of cases in which children have legal representa-
9 tion.

10 “(K) The percentage of cases in which the
11 court reviews case plans within established time
12 guidelines.

13 “(L) The percentage of children receiving
14 legal counsel, guardians ad litem, or court-ap-
15 pointed special advocates before the preliminary
16 protective hearing or equivalent, with separate
17 measures of the percentages of each type of
18 representation and of whether the representa-
19 tion was received within established time guide-
20 lines, within 5 days after the adoption petition
21 is filed, within 6 through 10 days after the fil-
22 ing, and within more than 10 days after the fil-
23 ing.

24 “(M) The percentage of cases in which
25 counsel for parents are appointed before the

1 preliminary protective hearing or equivalent,
2 with separate measures of the percentages in
3 which such appointments are made within es-
4 tablished time guidelines, within 5 days after
5 the adoption petition is filed, within 6 through
6 10 days after the filing, and within more than
7 10 days after the filing.

8 “(N) The percentage of cases in which
9 legal counsel for children is appointed on or be-
10 fore the first court appearance, and the per-
11 centage of cases in which legal counsel for chil-
12 dren changes, and the number of changes in-
13 volved.

14 “(O) The percentage of cases in which
15 legal counsel for parents changes, and the num-
16 ber of changes involved.

17 “(P) The percentage of cases in which
18 legal counsel for parents, children, and agencies
19 are present at each hearing.

20 “(Q) The percentages of children for whom
21 all hearings are heard by 1 or more judicial of-
22 ficers, and the number of judicial officers hear-
23 ing the case.

24 “(R) The average and median times from
25 filing the original petition to adjudication.

1 “(S) The average and median times from
2 filing the original petition to disposition.

3 “(T) The percentages of cases that are ad-
4 judicated within 30 days after the filing of the
5 dependency petition, within 60 days thereafter,
6 and within 90 days thereafter.

7 “(U) The percentages of cases that receive
8 a disposition within 10 days after the depend-
9 ency adjudication, within 30 days thereafter,
10 and within 90 days thereafter.

11 “(V) The percentage of cases where chil-
12 dren are successfully served in the home and
13 not detained; the average and median times to
14 reunification; and the percentage of cases where
15 children are not successfully reunified.

16 “(W) The average and median times from
17 the filing of the original petition to permanent
18 placement.

19 “(X) The average and median times from
20 the filing of the original petition to finalized
21 termination of parental rights.

22 “(Y) The percentages of cases for which
23 the termination petition is filed within 3 months
24 after the dependency disposition, within 6

1 months thereafter, within 12 months thereafter,
2 and within 18 months thereafter.

3 “(Z) The percentage of cases that receive
4 a termination order within 30 days after the fil-
5 ing of the termination petition, within 90 days
6 thereafter, within 120 days thereafter, and
7 within 180 days thereafter.

8 “(AA) The percentages of cases for which
9 an adoption petition is filed within 1 month
10 after the termination order, within 3 months
11 thereafter, and within 6 months thereafter.

12 “(BB) The percentages of cases for which
13 the adoption is finalized within 1 month after
14 the adoption petition is filed, within 3 months
15 thereafter, within 6 months thereafter, and
16 within 12 months thereafter.

17 “(CC) The percentage of hearings (by
18 hearing type) not completed within timeframes
19 set forth in statute or court rules, including,
20 where possible, the reason for noncompletion.”.

21 (b) GRANTS TO ENABLE COURTS TO BUILD CAPAC-
22 ITY TO TRACK AND ANALYZE CASELOADS.—

23 (1) IN GENERAL.—The Secretary of Health and
24 Human Services (in this subsection referred to as
25 the “Secretary”) shall make grants, in accordance

1 with this subsection, to the highest State courts in
2 States participating in the program under part E of
3 title IV of the Social Security Act, for the purpose
4 of enabling the courts to build capacity to track and
5 analyze caseloads and the performance measures de-
6 scribed in section 13712(b)(2) of the Omnibus
7 Budget Reconciliation Act of 1993.

8 (2) APPLICATIONS.—In order for a highest
9 State court to be eligible for a grant under this sub-
10 section, the court shall submit to the Secretary an
11 application at such time, in such form, and including
12 such information and assurances as the Secretary
13 shall require, including a plan developed jointly by
14 the child welfare agency of the State and the courts
15 of the State for collaboration and sharing of data
16 and information.

17 (3) ALLOTMENTS.—

18 (A) IN GENERAL.—Each highest State
19 court which has an application approved under
20 paragraph (2) shall be entitled to payment for
21 each fiscal year specified in paragraph (5) of an
22 amount equal to \$85,000 plus the amount de-
23 scribed in subparagraph (B) of this paragraph
24 for the fiscal year with respect to the State in
25 which the court is located.

1 (B) FORMULA.—The amount described in
2 this subparagraph for a fiscal year with respect
3 to a State is the amount that bears the same
4 ratio to the dollar amount specified in para-
5 graph (5) for the fiscal year (reduced by the
6 dollar amount specified in subparagraph (A),
7 multiplied by the number of highest State
8 courts with applications approved under para-
9 graph (2)) as the number of individuals in fos-
10 ter care in the State who have not attained 21
11 years of age bears to the total number of such
12 individuals in all States the highest courts of
13 which have approved applications under para-
14 graph (2) for the fiscal year.

15 (4) USE OF FUNDS.—Each highest State court
16 to which a grant is made under this section shall use
17 the grant to pay not more than 75 percent of the
18 costs of activities aimed at the purpose described in
19 paragraph (1).

20 (5) LIMITATIONS ON AUTHORIZATION OF AP-
21 PROPRIATIONS.—For grants under this subsection,
22 there are authorized to be appropriated to the Sec-
23 retary \$10,000,000 for each of fiscal years 2006 and
24 2007.

1 (c) GRANTS TO ENABLE COURTS TO TRAIN COURT
2 PERSONNEL IN CHILD WELFARE CASES.—

3 (1) IN GENERAL.—The Secretary of Health and
4 Human Services (in this subsection referred to as
5 the “Secretary”) shall make grants, in accordance
6 with this subsection, to the highest State courts in
7 States participating in the program under part E of
8 title IV of the Social Security Act, for the purpose
9 of enabling the courts to train judges, attorneys, and
10 other personnel in child welfare cases.

11 (2) APPLICATIONS.—In order for a highest
12 State court to be eligible for a grant under this sub-
13 section, the court shall submit to the Secretary an
14 application at such time, in such form, and including
15 such information and assurances as the Secretary
16 shall require, including a showing that a portion of
17 the grant will be used for joint training of court per-
18 sonnel, child welfare agency staff, counsel for chil-
19 dren and parents, and others involved in protecting
20 and caring for children, through initiatives that are
21 jointly planned and executed with the State child
22 welfare agency.

23 (3) ALLOTMENTS.—

24 (A) IN GENERAL.—Each highest State
25 court which has an application approved under

1 paragraph (2) shall be entitled to payment for
2 each fiscal year specified in paragraph (5) of an
3 amount equal to \$85,000 plus the amount de-
4 scribed in subparagraph (B) of this paragraph
5 for the fiscal year with respect to the State in
6 which the court is located.

7 (B) FORMULA.—The amount described in
8 this subparagraph for a fiscal year with respect
9 to a State is the amount that bears the same
10 ratio to the dollar amount specified in para-
11 graph (5) for the fiscal year (reduced by the
12 dollar amount specified in subparagraph (A),
13 multiplied by the number of highest State
14 courts with applications approved under para-
15 graph (2)) as the number of individuals in the
16 State who have not attained 21 years of age
17 bears to the total number of such individuals in
18 all States the highest courts of which have ap-
19 proved applications under paragraph (2) for the
20 fiscal year.

21 (4) USE OF FUNDS.—Each highest State court
22 to which a grant is made under this section shall use
23 the grant to pay not more than 75 percent of the
24 costs of activities aimed at the purpose described in
25 paragraph (1).

1 (5) LIMITATIONS ON AUTHORIZATION OF AP-
 2 PROPRIATIONS.—For grants under this subsection,
 3 there are authorized to be appropriated to the Sec-
 4 retary \$10,000,000 for each of fiscal years 2006 and
 5 2007.

6 (d) STUDENT LOAN REPAYMENT FOR PUBLIC AT-
 7 TORNEYS.—

8 (1) IN GENERAL.—The Higher Education Act
 9 of 1965 is amended by inserting after section 428K
 10 (20 U.S.C. 1078–11) the following:

11 **“SEC. 428L. LOAN FORGIVENESS FOR FAMILY LAW, DE-**
 12 **PENDENCY, OR DOMESTIC RELATIONS AT-**
 13 **TORNEYS.**

14 “(a) PURPOSE.—The purpose of this section is to en-
 15 courage qualified individuals to enter and continue em-
 16 ployment as family law, dependency, or domestic relations
 17 attorneys.

18 “(b) DEFINITIONS.—In this section:

19 “(1) FAMILY LAW, DEPENDENCY, OR DOMESTIC
 20 RELATIONS ATTORNEYS.—The term ‘family law, de-
 21 pendency, or domestic relations attorney’ means an
 22 attorney who works in the field of family law, de-
 23 pendency, or domestic relations, including juvenile
 24 justice, truancy, child abuse or neglect, adoption, do-
 25 mestic relations, child support, paternity, and other

1 areas which fall under the field of family law, de-
2 pendency, or domestic relations law as determined
3 by State law.

4 “(2) STUDENT LOAN.—The term ‘student loan’
5 means—

6 “(A) a loan made, insured, or guaranteed
7 under this part; and

8 “(B) a loan made under part D or E.

9 “(c) PROGRAM AUTHORIZED.—For the purpose of
10 encouraging qualified individuals to enter and continue
11 employment as family law, dependency, or domestic rela-
12 tions attorneys, the Secretary shall carry out a program,
13 through the holder of a loan, of assuming the obligation
14 to repay (by direct payments on behalf of a borrower) a
15 qualified loan amount for a student loan in accordance
16 with subsection (d), for any borrower who—

17 “(1) is employed full-time as a family law, de-
18 pendency, or domestic relations attorney; and

19 “(2) is not in default on a loan for which the
20 borrower seeks forgiveness.

21 “(d) TERMS OF AGREEMENT.—

22 “(1) IN GENERAL.—To be eligible to receive re-
23 payment benefits under this section, a borrower shall
24 enter into a written agreement that specifies that—

1 “(A) the borrower will remain employed
2 full-time as a family law, dependency, or domes-
3 tic relations attorney for a required period of
4 service specified in the agreement (but not less
5 than 3 years), unless involuntarily separated
6 from that employment;

7 “(B) if the borrower is involuntarily sepa-
8 rated from that employment on account of mis-
9 conduct, or voluntarily separates from that em-
10 ployment, before the end of the period specified
11 in the agreement, the borrower will repay the
12 Secretary the amount of any benefits received
13 by such employee under this section;

14 “(C) if the borrower is required to repay
15 an amount to the Secretary under subpara-
16 graph (B) and fails to repay the amount de-
17 scribed in subparagraph (B), a sum equal to
18 the amount is recoverable by the Government
19 from the employee (or such employee’s estate, if
20 applicable) by such method as is provided by
21 law for the recovery of amounts owing to the
22 Government;

23 “(D) the Secretary may waive, in whole or
24 in part, a right of recovery under this sub-
25 section if it is shown that recovery would be

1 against equity and good conscience or against
2 the public interest; and

3 “(E) the Secretary shall make student loan
4 payments under this section for the period of
5 the agreement, subject to the availability of ap-
6 propriations.

7 “(2) REPAYMENTS.—Any amount repaid by, or
8 recovered from, an individual (or an estate) under
9 this subsection shall be credited to the appropriation
10 account from which the amount involved was origi-
11 nally paid. Any amount so credited shall be merged
12 with other sums in such account and shall be avail-
13 able for the same purposes and period, and subject
14 to the same limitations (if any), as the sums with
15 which the amount was merged.

16 “(3) LIMITATIONS.—

17 “(A) STUDENT LOAN PAYMENT
18 AMOUNT.—Student loan payments made by the
19 Secretary under this section shall be made sub-
20 ject to such terms, limitations, or conditions as
21 may be mutually agreed to by the borrower con-
22 cerned and the Secretary in the agreement de-
23 scribed in this subsection, except that the
24 amount paid by the Secretary under this section
25 may not exceed—

1 “(i) \$6,000 for any borrower in any
2 calendar year; or

3 “(ii) a total of \$50,000 in the case of
4 any borrower.

5 “(B) BEGINNING OF PAYMENTS.—Nothing
6 in this section shall be construed to authorize
7 the Secretary to pay any amount to reimburse
8 a borrower for any repayments made by such
9 borrower prior to the date on which the Sec-
10 retary entered into an agreement with the em-
11 ployee under this subsection.

12 “(e) ADDITIONAL AGREEMENTS.—On completion of
13 the required period of service under such an agreement,
14 the borrower concerned and the Secretary may enter into
15 an additional agreement described in subsection (d) for
16 a successive period of service specified in the agreement
17 (which may be less than 3 years).

18 “(f) AWARD BASIS.—The Secretary shall provide re-
19 payment benefits under this section on a first-come, first-
20 served basis and subject to the availability of appropria-
21 tions.

22 “(g) REGULATIONS.—The Secretary is authorized to
23 issue such regulations as may be necessary to carry out
24 the provisions of this section.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$20,000,000 for fiscal year 2006 and such sums as may
4 be necessary for each of the 5 succeeding fiscal years.”.

5 (2) CANCELLATION OF LOANS.—

6 (A) AMENDMENT.—Section 465(a)(2)(F)
7 of the Higher Education Act of 1965 (20
8 U.S.C. 1087ee(a)(2)(F)) is amended by insert-
9 ing “, as a family law or domestic relations at-
10 torney (as defined in section 428L),” after
11 “agencies”.

12 (B) EFFECTIVE DATE.—The amendment
13 made by this paragraph shall apply to—

14 (i) eligible loans made before, on, or
15 after the date of enactment of this Act;
16 and

17 (ii) service as a prosecutor or public
18 defender that is provided on or after the
19 date of enactment of this Act.

20 (C) CONSTRUCTION.—Nothing in this
21 paragraph or the amendment made by this
22 paragraph shall be construed to authorize the
23 Secretary to pay any amount to reimburse a
24 borrower for any repayments made by such bor-
25 rower prior to the date on which the borrower

1 became eligible for cancellation under section
2 465(a) of such Act (20 U.S.C. 1087ee(a)).

3 (e) GAO STUDY.—

4 (1) IN GENERAL.—The Comptroller General of
5 the United States shall conduct a study that com-
6 pares States with respect to each of the following:

7 (A) The legal representation provided for
8 children.

9 (B) Children’s participation in their own
10 cases.

11 (C) Preparation of dependency court
12 judges.

13 (D) Case tracking and performance meas-
14 urement.

15 (E) Statewide collaborative foster care
16 councils.

17 (2) REPORT.—Not later than 1 year after the
18 date of the enactment of this Act, the Comptroller
19 General shall submit to the Committee on the Judi-
20 ciary of the House of Representatives a written re-
21 port that contains the results of the study required
22 by paragraph (1).

23 (f) SENSE OF THE CONGRESS WITH RESPECT TO
24 COURT ACCOUNTABILITY FOR IMPROVED CHILD OUT-
25 COMES.—It is the sense of the Congress that State judicial

1 leadership should use the measures of court performance
2 described in section 13712(b)(2) of the Omnibus Budget
3 Reconciliation Act of 1993 (as amended by subsection (a)
4 of this section) to ensure accountability by every court for
5 improved outcomes for children, and to inform decisions
6 about allocating resources across the court system.

7 (g) SENSE OF THE CONGRESS WITH RESPECT TO
8 THE ORGANIZATION OF STATE DEPENDENCY COURTS.—
9 It is the sense of the Congress that State courts should
10 be organized to enable children and parents to have legal
11 representation and participate in a meaningful way in
12 their own court proceedings.

13 (h) SENSE OF THE CONGRESS WITH RESPECT TO
14 BUILDING THE POOL OF ATTORNEYS QUALIFIED TO
15 HANDLE CASES IN DEPENDENCY COURTS.—It is the
16 sense of the Congress that law schools, bar associations,
17 and law firms should help build the pool of qualified attor-
18 neys available to children and parents in dependency
19 courts.

20 (i) SENSE OF THE CONGRESS WITH RESPECT TO
21 TRAINING, CASELOADS, AND COMPENSATION OF ATTOR-
22 NEYS FOR CHILDREN.—It is the sense of the Congress
23 that attorneys for children should have adequate training,

- 1 reasonable caseloads, and receive reasonable and adequate
- 2 compensation.

