

110TH CONGRESS
1ST SESSION

H. R. 4091

To amend part E of title IV of the Social Security Act to promote the adoption of children with special needs.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2007

Mr. COOPER (for himself, Mr. LAMPSON, Mr. OBERSTAR, Ms. NORTON, Mr. PICKERING, Mr. ELLISON, Mrs. BOYDA of Kansas, Mr. SOUDER, and Ms. BERKLEY) 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 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 2007”.

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;

1 111 Stat. 2115), clearly stating that a child's health
2 and safety are paramount, and that each child de-
3 serves a permanent home.

4 (2) The Adoption and Safe Families Act of
5 1997 provides incentives for adoptions, and for fiscal
6 year 2005, States placed nearly 52,000 children
7 from State care.

8 (3) In 2003, the Adoption Promotion Act (Pub-
9 lic Law 108-145, 117 Stat. 1879), which reauthor-
10 ized the incentive program, gave greater emphasis
11 on moving older children into permanency.

12 (4) Despite the increase in adoptions, in 2005,
13 more than 115,000 children in foster care were wait-
14 ing to be adopted.

15 (5) Some States have chosen to limit services
16 provided to special needs adopted children who are
17 not eligible for adoption assistance under part E of
18 title IV of the Social Security Act, in effect discrimi-
19 nating against a child whose parental rights have
20 been terminated by basing the child's eligibility for
21 such assistance on the financial status of adults who
22 are no longer the child's legal parents.

23 (6) These children have many special needs and
24 require Federal financial assistance and support to

1 start the physical and emotional healing after what
2 may have been past years of abuse and neglect.

3 **SEC. 3. PROMOTION OF ADOPTION OF CHILDREN WITH**
4 **SPECIAL NEEDS.**

5 (a) IN GENERAL.—Section 473(a)(2) of the Social
6 Security Act (42 U.S.C. 673(a)(2)) is amended to read
7 as follows:

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

10 “(i)(I) at the time of termination of parental
11 rights, was in the care of a public or licensed private
12 child placement agency or Indian tribal organization
13 pursuant to a voluntary placement agreement, relin-
14 quishment, or involuntary removal of the child from
15 the home, and the State has determined, pursuant
16 to criteria established by the State, that continu-
17 ation in the home would be contrary to the safety or
18 welfare of the child;

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

22 “(III) was residing in a foster family home or
23 child care institution with a minor parent of the
24 child pursuant to a voluntary placement agreement,
25 relinquishment, or involuntary removal of the child

1 from the home, and the State has determined, pur-
2 suant to criteria established by the State, that con-
3 tinuation in the home would be contrary to the safe-
4 ty or welfare of the child; and

5 “(ii) has been determined by the State, pursu-
6 ant to subsection (c), to be a child with special
7 needs, which needs shall be considered by the State,
8 together with the circumstances of the adopting par-
9 ents, in determining the amount of any payments to
10 be made to the adoptive parents.

11 “(B) Notwithstanding any other provision of law, and
12 except as provided in paragraph (7), a child who is not
13 a citizen or resident of the United States, who is lawfully
14 present in the United States, and who meets the require-
15 ments of subparagraph (A) shall be treated as meeting
16 the requirements of this paragraph for purposes of para-
17 graph (1)(B)(ii).

18 “(C) A child who meets the requirements of subpara-
19 graph (A) of this paragraph, who was determined eligible
20 for adoption assistance payments under this part with re-
21 spect to a prior adoption (or who would have been deter-
22 mined eligible for such payments had the Adoption and
23 Safe Families Act of 1997 been in effect at the time that
24 such determination would have been made), and who is
25 available for adoption because the prior adoption has been

1 dissolved and the parental rights of the adoptive parents
2 have been terminated, or because the child’s adoptive par-
3 ents have died, shall be treated as meeting the require-
4 ments of this paragraph for purposes of paragraph
5 (1)(B)(ii).”.

6 (b) EXCEPTION.—Section 473(a) of such Act (42
7 U.S.C. 673(a)) is amended by adding at the end the fol-
8 lowing:

9 “(7)(A) Notwithstanding any other provision of this
10 subsection, a State shall not make a payment pursuant
11 to this section to parents with respect to a child considered
12 by a State to be a special needs child if the child—

13 “(i) is not a citizen or resident of the United
14 States; and

15 “(ii) was adopted outside of the United States
16 or was brought into the United States for the pur-
17 pose of being adopted.

18 “(B) Subparagraph (A) shall not be construed as pro-
19 hibiting payments under this part for a child described
20 in subparagraph (A) that is placed in foster care subse-
21 quent to the failure, as determined by the State, of the
22 initial adoption of the child by the parents described in
23 such subparagraph.”.

1 (c) DETERMINATION OF A CHILD WITH SPECIAL
2 NEEDS.—Section 473(c)(1) of such Act (42 U.S.C.
3 673(c)(1)) is amended to read as follows:

4 “(1)(A) the State has determined, pursuant to
5 criteria established by the State, that the child can-
6 not or should not be returned to the home of his or
7 her 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 **SEC. 4. SENSE OF THE CONGRESS.**

12 It is the sense of the Congress that the States should
13 reinvest in child welfare programs any savings resulting
14 from the implementation of the amendments made by this
15 Act.

16 **SEC. 5. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Except as provided in subsection
18 (b), the amendments made by this Act shall take effect
19 on October 1, 2008, and shall apply with respect to adop-
20 tion assistance agreements entered into, and to payments
21 under part E of title IV of the Social Security Act for
22 calendar quarters beginning, on or after such date, with-
23 out regard to whether regulations to implement the
24 amendments are promulgated by such date.

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

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