

112TH CONGRESS
2D SESSION

H. R. 6128

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to prohibit a State, county, or other political subdivision of a State from filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2012

Ms. ROYBAL-ALLARD 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 ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to prohibit a State, county, or other political subdivision of a State from filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, 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 “Help Separated Fami-
5 lies Act of 2012”.

6 **SEC. 2. IMMIGRATION STATUS ALONE NOT A DISQUALI-**
7 **FICATION FROM BEING A PLACEMENT FOR A**
8 **FOSTER CHILD.**

9 Section 471(a)(19) of the Social Security Act (42
10 U.S.C. 671(a)(19)) is amended—

11 (1) by striking “(19) provides that the State”
12 and inserting the following:

13 “(19) provides that—

14 “(A) the State”; and

15 (2) by adding after and below the end the fol-
16 lowing:

17 “(B) such standards shall ensure that the
18 immigration status alone of a parent, legal
19 guardian, or relative shall not disqualify the
20 parent, legal guardian, or relative from being a
21 placement for a child;”.

1 **SEC. 3. STATE PLAN REQUIREMENT TO ACCEPT CERTAIN**
2 **DOCUMENTS ISSUED BY FOREIGN ENTITIES**
3 **AS SUFFICIENT IDENTIFICATION FOR PUR-**
4 **POSES OF INITIATING A CRIMINAL RECORDS**
5 **CHECK OR A FINGERPRINT-BASED CHECK.**

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

8 (1) in subparagraph (A), by inserting “which
9 procedures shall require the State (including the
10 State agency, the child welfare agency of any county
11 or other political subdivision of the State, and case-
12 workers and supervisors of any such agency) to ac-
13 cept a foreign consulate identification card, a foreign
14 passport, or such other foreign identification docu-
15 ment as may be allowed in regulations prescribed by
16 the Secretary, as sufficient identification for pur-
17 poses of initiating a criminal records check or a fin-
18 gerprint-based check,” before “including proce-
19 dures”; and

20 (2) in subparagraph (C), by inserting “, which
21 procedures shall require the State (including the
22 State agency, the child welfare agency of any county
23 or other political subdivision of the State, and case-
24 workers and supervisors of any such agency) to ac-
25 cept a foreign consulate identification card, a foreign
26 passport, or such other foreign identification docu-

1 ment as may be allowed in regulations prescribed by
 2 the Secretary, as sufficient identification for pur-
 3 poses of initiating a criminal records check or a fin-
 4 gerprint-based check” before the semicolon.

5 **SEC. 4. STATE CHILD WELFARE AGENCIES ENCOURAGED**
 6 **TO GRANT WAIVERS OF REQUIREMENTS**
 7 **THAT WOULD PREVENT A CHILD FROM**
 8 **BEING PLACED WITH A RELATIVE ON THE**
 9 **BASIS OF A MINOR LEGAL INFRACTION BY**
 10 **THE RELATIVE.**

11 It is the sense of the Congress that the child welfare
 12 agency of a State, or of any county or other political sub-
 13 division of a State, should grant a waiver of any require-
 14 ment which would prevent the placement of a child with
 15 a relative of the child, on the basis of a minor legal infrac-
 16 tion, if the relative would otherwise be considered eligible
 17 for such a placement.

18 **SEC. 5. STATE PLAN REQUIREMENT TO NOTIFY RELATIVES**
 19 **SEEKING PLACEMENT OF A CHILD THAT**
 20 **THEIR IMMIGRATION STATUS WILL NOT BE**
 21 **QUESTIONED.**

22 Section 471(a)(29) of the Social Security Act (42
 23 U.S.C. 671(a)(29)) is amended—

24 (1) by striking “and” at the end of subpara-
 25 graph (C);

1 (2) by adding “and” at the end of subpara-
2 graph (D); and

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

4 “(E) the immigration status of any such
5 relative seeking placement of the child with the
6 relative shall not be questioned, except to the
7 extent necessary in determining eligibility for
8 relevant services or programs;”.

9 **SEC. 6. PROHIBITION ON STATE FILING FOR TERMINATION**
10 **OF PARENTAL RIGHTS IN FOSTER CARE**
11 **CASES IN WHICH OTHERWISE FIT AND WILL-**
12 **ING PARENT OR RELATIVE HAS BEEN DE-**
13 **PORTED OR IS INVOLVED IN AN IMMIGRA-**
14 **TION PROCEEDING, UNLESS CERTAIN CONDI-**
15 **TIONS HAVE BEEN MET.**

16 Section 475(5)(E) of the Social Security Act (42
17 U.S.C. 675(5)(E)) is amended by adding after and below
18 the end the following flush text:

19 “except that the State, and a county or other polit-
20 ical subdivision of the State, shall not file (or join
21 in the filing of such a petition) based on the removal
22 of the parent from the United States or the involve-
23 ment of the parent in (including detention pursuant
24 to) an immigration proceeding, unless (I) the State
25 (or the county or other political subdivision of the

1 State, as the case may be) has made reasonable ef-
2 forts to identify, locate, and contact any parent of
3 the child, who has been removed from the United
4 States, and any adult relative of the child, referred
5 to in section 471(a)(29), including through the dip-
6 lomatic or consular offices of the country to which
7 the parent was removed, to notify such a parent or
8 relative of the intent of the State (or the county or
9 other political subdivision of the State, as the case
10 may be) to file (or join in the filing of) such a peti-
11 tion, and to reunify the child with any such parent
12 or relative; or (II) the parent is unfit or unwilling
13 to be a parent of the child;”.

14 **SEC. 7. EFFECTIVE DATE.**

15 (a) IN GENERAL.—The amendments made by this
16 Act shall take effect on the 1st day of the 1st fiscal year
17 beginning on or after the date of the enactment of this
18 Act, and shall apply to payments under part E of title
19 IV of the Social Security Act for calendar quarters begin-
20 ning on or after such date.

21 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
22 QUIRED.—If the Secretary of Health and Human Services
23 determines that State legislation (other than legislation
24 appropriating funds) is required in order for a State plan
25 approved under part E of title IV of the Social Security

1 Act to meet the additional requirements imposed by the
2 amendments made by this Act, the plan shall not be re-
3 garded as failing to meet any of the additional require-
4 ments before the 1st day of the 1st calendar quarter be-
5 ginning after the 1st regular session of the State legisla-
6 ture that begins after the date of the enactment of this
7 Act. For purposes of the preceding sentence, if the State
8 has a 2-year legislative session, each year of the session
9 is deemed to be a separate regular session of the State
10 legislature.

