

113TH CONGRESS
1ST SESSION

H. R. 2036

To amend part E of title IV of the Social Security Act to require States to help alien children in the child welfare system apply for all available forms of immigration relief, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2013

Mr. O'ROURKE (for himself, Ms. BASS, Mr. LEWIS, Ms. ROYBAL-ALLARD, Ms. SLAUGHTER, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, 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 amend part E of title IV of the Social Security Act to require States to help alien children in the child welfare system apply for all available forms of immigration relief, 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 “Foster Children Op-
5 portunity Act”.

1 **SEC. 2. STATE PLAN REQUIREMENT TO HAVE PROCEDURES**
2 **TO HELP ALIEN CHILDREN IN THE CHILD**
3 **WELFARE SYSTEM ACHIEVE SPECIAL IMMI-**
4 **GRANT JUVENILE STATUS AND LAWFUL PER-**
5 **MANENT RESIDENT STATUS.**

6 Section 471(a)(27) of the Social Security Act (42
7 U.S.C. 671(a)(27)) is amended by inserting “, and if the
8 child is an alien without a lawful immigration status, for
9 reviewing the child’s eligibility for special immigrant juve-
10 nile status, lawful permanent resident status, and other
11 forms of relief under immigration law, within 1 year after
12 the status of the child is first reviewed pursuant to section
13 475(5)(B), and annually thereafter, and for assisting the
14 child in applying for special immigrant juvenile status,
15 lawful permanent resident status, and other forms of relief
16 under immigration law, so that the child can reasonably
17 be expected to achieve such relief before exiting foster
18 care, if doing so would be in the best interests of the child”
19 before the period.

20 **SEC. 3. REQUIREMENT THAT STATE CHILD WELFARE AGEN-**
21 **CIES DOCUMENT THEIR EFFORTS TO PURSUE**
22 **LAWFUL IMMIGRANT STATUS FOR ELIGIBLE**
23 **ALIEN FOSTER CHILDREN.**

24 Section 475(1) of the Social Security Act (42 U.S.C.
25 675(1)) is amended by adding at the end the following:

“(H) In the case of an alien child who, after a review conducted pursuant to section 471(a)(27), is determined to be a child who may qualify for special immigrant juvenile status, lawful permanent resident status, or other forms of relief under immigration law, documentation of the steps the agency is taking in assisting the child to obtain the status before exiting foster care, including whether the requisite petitions have been filed on behalf of the child, and whether assistance has been provided to secure immigration legal counsel for the child.”.

SEC. 4. REQUIRMENT TO DETERMINE WHETHER FILING PETITIONS FOR SPECIAL IMMIGRANT JUVENILE STATUS AND LAWFUL PERMANENT RESIDENT STATUS FOR ALIEN FOSTER CHILDREN IS IN THE CHILD’S BEST INTEREST IN APPROPRIATE CASES.

Section 475(5)(C)(i) of the Social Security Act (42 U.S.C. 675(5)(C)(i)) is amended by inserting “, and, in the case of an alien child without lawful immigration status, the hearing shall determine whether a petition for special immigrant juvenile status or lawful permanent resident status has been filed on behalf of the child and, if

1 such a petition has not been so filed, whether it is in the
 2 best interests of the child, including consideration of the
 3 potential effects on family reunification efforts, to have
 4 such a petition so filed or to have immigration counsel
 5 appointed” before the semicolon at the end.

6 **SEC. 5. AUTHORITY TO USE COURT IMPROVEMENT PRO-**
 7 **GRAM GRANT FUNDS TO EDUCATE AND**
 8 **TRAIN CHILD WELFARE AND COURT STAFF,**
 9 **INCLUDING JUDGES, SOCIAL WORKERS,**
 10 **COURT-APPOINTED SPECIAL ADVOCATES,**
 11 **AND LAWYERS TO ASSIST ALIEN CHILDREN**
 12 **IN ACHIEVING SPECIAL IMMIGRANT JUVE-**
 13 **NILE STATUS, LAWFUL PERMANENT RESI-**
 14 **DENT STATUS, AND OTHER FORMS OF RELIEF**
 15 **UNDER IMMIGRATION LAW.**

16 Section 438(a)(2) of the Social Security Act (42
 17 U.S.C. 629h(a)(2)) is amended—

18 (1) by striking “and” at the end of subpara-
 19 graph (B);

20 (2) by adding “and” at the end of subpara-
 21 graph (C); and

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

23 “(D) to educate and train child welfare
 24 and court staff, including judges, social work-
 25 ers, court-appointed special advocates, and at-

1 torneys to assist alien children in achieving spe-
2 cial immigrant juvenile status, lawful perma-
3 nent resident status, and other forms of relief
4 under immigration law in a timely manner;”.

5 **SEC. 6. TECHNICAL ASSISTANCE FOR CHILD WELFARE**
6 **AGENCIES.**

7 On request of a State child welfare agency for tech-
8 nical assistance in carrying out the amendments made by
9 this Act, the Secretary of Health and Human Services,
10 in consultation with the Secretary of Homeland Security
11 and the Secretary of State, shall provide the assistance,
12 and may award grants to and enter into contracts with
13 qualified non-profit or other community-based service pro-
14 viders with substantive expertise to perform the assist-
15 ance.

16 **SEC. 7. ELIGIBILITY FOR ASSISTANCE.**

17 (a) PUBLIC BENEFITS.—

18 (1) FEDERAL MEANS-TESTED PUBLIC BENE-
19 FITS.—Section 403(b) of the Personal Responsibility
20 and Work Opportunity Reconciliation Act of 1996 (8
21 U.S.C. 1613(b)) is amended by adding at the end
22 the following:

23 “(3) EXCEPTION FOR INDIVIDUALS WHO HAVE
24 OBTAINED SPECIAL IMMIGRANT JUVENILE STA-
25 TUS.—An alien who is granted special immigrant ju-

1 venile status under section 101(a)(27)(J) of the Im-
2 migration and Nationality Act (8 U.S.C.
3 1101(a)(27)(J)).”.

4 (2) OTHER FEDERAL PROGRAMS.—Section 402
5 of such Act (8 U.S.C. 1612) is amended—

6 (A) in subsection (a)(2), by adding at the
7 end the following:

8 “(N) EXCEPTION FOR INDIVIDUALS WHO
9 HAVE OBTAINED SPECIAL IMMIGRANT JUVE-
10 NILE STATUS.—With respect to eligibility for
11 benefits for the specified Federal programs de-
12 scribed in paragraph (3), paragraph (1) shall
13 not apply to any alien who is granted special
14 immigrant juvenile status under section
15 101(a)(27)(J) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1101(a)(27)(J)).”; and

17 (B) in subsection (b)(2), by adding at the
18 end the following:

19 “(G) EXCEPTION FOR INDIVIDUALS WHO
20 HAVE OBTAINED SPECIAL IMMIGRANT JUVE-
21 NILE STATUS.—An alien who is granted special
22 immigrant juvenile status under section
23 101(a)(27)(J) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1101(a)(27)(J)).”.

1 (b) STATE REIMBURSEMENT.—Section 472(a)(4) of
2 the Social Security Act (42 U.S.C. 672(a)(4)) is amended
3 by inserting “, and if the child is an alien who has ob-
4 tained special immigrant juvenile status under section
5 101(a)(27)(J) of the Immigration and Nationality Act and
6 would have been qualified to receive aid under the State
7 plan approved under section 402 of this Act in or for the
8 month in which the agreement described in paragraph
9 (2)(A)(i) of this subsection was entered into or court pro-
10 ceedings leading to the determination described in para-
11 graph (2)(A)(ii) of this subsection were initiated if the
12 child had been a United States citizen, the child shall be
13 considered to satisfy the requirements of paragraph (3)
14 with respect to the month” before the period.

15 **SEC. 8. EFFECTIVE DATE.**

16 (a) IN GENERAL.—The amendments made by this
17 Act, other than by section 7, shall take effect on the date
18 of the enactment of this Act, and shall apply to payments
19 under part E of title IV of the Social Security Act for
20 quarters beginning on or after such date.

21 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
22 QUIRED.—In the case of a State plan approved under part
23 E of title IV of the Social Security Act which the Secretary
24 of Health and Human Services determines requires State
25 legislation (other than legislation appropriating funds) in

1 order for the plan to meet the additional requirements im-
2 posed by this Act, the State plan shall not be regarded
3 as failing to comply with the requirements of such part
4 solely on the basis of the failure of the plan to meet such
5 additional requirements before the 1st day of the 1st cal-
6 endar quarter beginning after the close of the 1st regular
7 session of the State legislature that ends after the 1-year
8 period beginning with the date of the enactment of this
9 Act. For purposes of the preceding sentence, in the case
10 of a State that has a 2-year legislative session, each year
11 of the session is deemed to be a separate regular session
12 of the State legislature.

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