

date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(D), (2)(V) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE

Section effective Jan. 17, 2002, with delay permitted if State legislation is required, see section 301 of Pub. L. 107-133, set out as an Effective Date of 2002 Amendment note under section 629 of this title.

§ 629h. Entitlement funding for State courts to assess and improve handling of proceedings relating to foster care and adoption

(a) In general

The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E of this subchapter, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) that implement this part and part E of this subchapter;

(B) that determine the advisability or appropriateness of foster care placement;

(C) that determine whether to terminate parental rights;

(D) that determine whether to approve the adoption or other permanent placement of a child;¹

(E) that determine the best strategy to use to expedite the interstate placement of children, including—

(i) requiring courts in different States to cooperate in the sharing of information;

(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and²

(2) to implement improvements the highest state³ courts deem necessary as a result of the assessments, including—

(A) to provide for the safety, well-being, and permanence of children in foster care in

a timely and complete manner, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105-89), including the requirements in the Act related to concurrent planning;

(B) to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1320a-2a of this title; and

(C) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption, including by training judges, attorneys, and other legal personnel.

(b) Applications

In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(1) a description of how courts and child welfare agencies on the local and State levels will use not less than 30 percent of grant funds to collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

(2) a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 629d of this title, or the State plan approved under part E; and

(3) a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under this part or part E, and, where applicable, Indian tribes.

(c) Amount of grant

(1) In general

From the amounts reserved under sections 629f(b)(2) and 629g(b)(2) of this title for a fiscal year, each highest State court that has an application approved under this section for the fiscal year shall be entitled to payment of an amount equal to the sum of—

(A) \$255,000; and

(B) the amount described in paragraph (2) with respect to the court and the fiscal year.

¹ So in original. Probably should be followed by “and”.

² So in original. The word “and” probably should not appear.

³ So in original. Probably should be capitalized.

(2) Amount described

The amount described in this paragraph with respect to a court and a fiscal year is the amount that bears the same ratio to the total of the amounts reserved under sections 629f(b)(2) and 629g(b)(2) of this title for grants under this section for the fiscal year (after applying paragraphs (1)(A) and (3) of this subsection) as the number of individuals in the State in which the court is located who have not attained 21 years of age bears to the total number of such individuals in all States with a highest State court that has an approved application under this section for the fiscal year.

(3) Indian tribes

From the amounts reserved under section 629f(b)(2) of this title for a fiscal year, the Secretary shall, before applying paragraph (1) of this subsection, allocate \$1,000,000 for grants to be awarded on a competitive basis among the highest courts of Indian tribes or tribal consortia that—

- (A) are operating a program under part E, in accordance with section 679c of this title;
- (B) are seeking to operate a program under part E and have received an implementation grant under section 676 of this title; or
- (C) have a court responsible for proceedings related to foster care or adoption.

(d) Federal share

Each highest State court which receives funds paid under this section may use such funds to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2018 through 2023.

(Aug. 14, 1935, ch. 531, title IV, § 438, formerly Pub. L. 103–66, title XIII, § 13712, Aug. 10, 1993, 107 Stat. 655, as amended Pub. L. 105–89, title III, § 305(a)(3), Nov. 19, 1997, 111 Stat. 2130; renumbered § 438 of act Aug. 14, 1935, and amended Pub. L. 107–133, title I, § 107, Jan. 17, 2002, 115 Stat. 2418; Pub. L. 109–171, title VII, § 7401(a), Feb. 8, 2006, 120 Stat. 148; Pub. L. 109–239, §§ 8(b), 9, July 3, 2006, 120 Stat. 513; Pub. L. 109–288, § 9, Sept. 28, 2006, 120 Stat. 1255; Pub. L. 111–242, § 133(2), Sept. 30, 2010, 124 Stat. 2613; Pub. L. 112–34, title I, § 104, Sept. 30, 2011, 125 Stat. 374; Pub. L. 115–123, div. E, title VII, §§ 50741(c), 50752(d), (e), Feb. 9, 2018, 132 Stat. 256, 263; Pub. L. 116–260, div. X, § 7(d), div. CC, title III, § 305(b), Dec. 27, 2020, 134 Stat. 2414, 2994; Pub. L. 117–328, div. FF, title VI, § 6103(a)(4), Dec. 29, 2022, 136 Stat. 5965.)

Editorial Notes

REFERENCES IN TEXT

The Adoption and Safe Families Act of 1997, referred to in subsec. (a)(2)(A), is Pub. L. 105–89, Nov. 19, 1997, 111 Stat. 2115. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1305 of this title and Tables.

CODIFICATION

Section was formerly set out as a note under section 670 of this title prior to renumbering by Pub. L. 107–133.

PRIOR PROVISIONS

A prior section 438 of act Aug. 14, 1935, was classified to section 638 of this title prior to repeal by Pub. L. 100–485.

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–328 substituted “2023” for “2022”.

2020—Subsec. (a)(2)(A). Pub. L. 116–260, § 305(b)(1)(A)(i), inserted “in a timely and complete manner” before “, as set forth”.

Subsec. (a)(2)(C). Pub. L. 116–260, § 305(b)(1)(A)(ii), substituted “, including by training judges, attorneys, and other legal personnel.” for semicolon at end.

Subsec. (a)(3), (4). Pub. L. 116–260, § 305(b)(1)(B), struck out pars. (3) and (4) which read as follows:

“(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

“(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases; and

“(B) to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption.”

Subsec. (b). Pub. L. 116–260, § 305(b)(2), designated par. (1) as text of section and struck out par. (1) heading “In general”, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and realigned margins, in par. (1), struck out “in the case of a grant for the purpose described in subsection (a)(3),” before “a description” and inserted “use not less than 30 percent of grant funds to” before “collaborate”, in par. (2), struck out “in the case of a grant for the purpose described in subsection (a)(4),” before “a demonstration”, in par. (3), struck out “in the case of a grant for any purpose described in subsection (a),” before “a demonstration”, and struck out former par. (2) which related to single grant application.

Subsec. (c). Pub. L. 116–260, § 305(b)(3), added subsec. (c) and struck out former subsec. (c) which related to amount of grant and allocation of mandatory and discretionary funds.

Subsec. (c)(1). Pub. L. 116–260, § 7(d), substituted “2022” for “2021”.

Subsec. (d). Pub. L. 116–260, § 305(b)(4), substituted “2018 through 2022” for “2017 through 2021”.

Pub. L. 116–260, § 7(d), which directed substitution of “2022” for “2021”, was not executed in view of the amendment by Pub. L. 116–260, § 305(b)(4), to reflect the probable intent of Congress. See above.

2018—Subsec. (b)(1). Pub. L. 115–123, § 50741(c), in introductory provisions, inserted “shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home,” after “with respect to the child.”.

Subsec. (c)(1). Pub. L. 115–123, § 50752(d)(1), substituted “2017 through 2021” for “2012 through 2016”.

Subsec. (d). Pub. L. 115–123, § 50752(d)(2), substituted “2017 through 2021” for “2012 through 2016”.

Subsec. (e). Pub. L. 115–123, § 50752(e), struck out subsec. (e). Text read as follows: “Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

“(1) \$10,000,000 for grants referred to in subsection (b)(2)(B); and

“(2) \$10,000,000 for grants referred to in subsection (b)(2)(C).

“For fiscal year 2011, out of the amount reserved pursuant to section 629f(b)(2) of this title for such fiscal year, there are available \$10,000,000 for grants referred to in subsection (b)(2)(B), and \$10,000,000 for grants referred to in subsection (b)(2)(C).”

2011—Subsec. (a)(2)(A). Pub. L. 112–34, § 104(a)(1)(A), substituted “, including the requirements in the Act related to concurrent planning;” for “; and”.

Subsec. (a)(2)(C). Pub. L. 112–34, § 104(a)(1)(B), (C), added subparagraph. (C).

Subsec. (a)(4). Pub. L. 112–34, § 104(a)(2), designated existing provisions as subparagraph. (A) and added subparagraph. (B).

Subsec. (b)(1). Pub. L. 112-34, §104(e), made technical amendment to directory language of Pub. L. 109-239, §8(b). See 2006 Amendment note below.

Subsec. (b)(2). Pub. L. 112-34, §104(b), amended par. (2) generally. Prior to amendment, text read as follows: “A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants:

“(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

“(B) A grant for the purpose described in subsection (a)(3).

“(C) A grant for the purpose described in subsection (a)(4).”

Subsec. (c). Pub. L. 112-34, §104(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to allotments.

Subsec. (d). Pub. L. 112-34, §104(d), substituted “2012 through 2016” for “2002 through 2011”.

2010—Subsec. (c)(2)(A). Pub. L. 111-242, §133(2)(A), substituted “2011” for “2010”.

Subsec. (e). Pub. L. 111-242, §133(2)(B), inserted concluding provisions.

2006—Subsec. (a)(1)(E). Pub. L. 109-239, §9, added subpar. (E).

Subsec. (a)(3), (4). Pub. L. 109-171, §7401(a)(1), added pars. (3) and (4).

Subsec. (b). Pub. L. 109-171, §7401(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “In order to be eligible for a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary shall require.”

Subsec. (b)(1). Pub. L. 109-239, §8(b), as amended by Pub. L. 112-34, §104(e), inserted “shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and” after “highest State court” in introductory provisions.

Subsec. (c). Pub. L. 109-171, §7401(a)(3), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), in subpar. (A), inserted “of this section for a grant described in subsection (b)(2)(A) of this section” after “subsection (b)” and substituted “subparagraph (B) of this paragraph” for “paragraph (2) of this subsection”, in subpar. (B), substituted “this subparagraph” for “this paragraph” and “subparagraph (A) of this paragraph” for “paragraph (1) of this subsection” and inserted “for such a grant” after “subsection (b)”, and added par. (2).

Subsec. (c)(1)(A). Pub. L. 109-288 substituted “2011” for “2006”.

Subsec. (d). Pub. L. 109-288 substituted “2011” for “2006”.

Subsec. (e). Pub. L. 109-171, §7401(a)(4), added subsec. (e).

2002—Subsec. (a). Pub. L. 107-133, §107(d)(1)(A), made technical amendment to reference in original act which appears in text as reference to part E of this subchapter.

Subsec. (a)(1)(A). Pub. L. 107-133, §107(d)(1)(B), made technical amendment to reference in original act which appears in text as reference to this part and part E of this subchapter.

Subsec. (a)(2). Pub. L. 107-133, §107(a)(1), added par. (2) and struck out former par. (2) which read as follows: “to implement changes deemed necessary as a result of the assessments.”

Subsec. (c)(1). Pub. L. 107-133, §107(a)(2), (b), inserted “and improvement” after “assessment” and substituted “for each of fiscal years 2002 through 2006, from the amount reserved pursuant to section 629f(b)(2) of this title (and the amount, if any, reserved pursuant to section 629g(b)(2) of this title), of an amount equal to the sum of \$85,000 plus the amount described in paragraph (2) of this subsection for the fiscal year.” for “for

each of fiscal years 1995 through 2001, from amounts reserved pursuant to section 629(d)(2) of this title, of an amount equal to the sum of—

“(A) for fiscal year 1995, \$75,000 plus the amount described in paragraph (2) for fiscal year 1995; and

“(B) for each of fiscal years 1996 through 2001, \$85,000 plus the amount described in paragraph (2) for each of such fiscal years.”

Subsec. (c)(2). Pub. L. 107-133, §107(d)(2), substituted “section 629f(b)(2) of this title (and the amount, if any, reserved pursuant to section 629g(b)(2) of this title)” for “section 629(d)(2) of this title”.

Subsec. (d). Pub. L. 107-133, §107(c), in heading substituted “Federal share” for “Use of grant funds” and in text substituted “to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2002 through 2006.” for “to pay—

“(1) any or all costs of activities under this section in fiscal year 1995; and

“(2) not more than 75 percent of the cost of activities under this section in each of fiscal years 1996, 1997, 1998, 1999, 2000, and 2001.”

1997—Subsec. (c)(1). Pub. L. 105-89, §305(a)(3)(A), substituted “2001” for “1998” in introductory provisions and par. (B).

Subsec. (d)(2). Pub. L. 105-89, §305(a)(3)(B), substituted “1998, 1999, 2000, and 2001” for “and 1998”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 305(b) of Pub. L. 116-260 effective Oct. 1, 2021, see section 305(c) of Pub. L. 116-260, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 50741(c) of Pub. L. 115-123 effective as if enacted on Jan. 1, 2018, subject to transition rule and State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-34, title I, §104(e), Sept. 30, 2011, 125 Stat. 376, provided that the amendment by section 104(e) of Pub. L. 112-34 is effective as if included in the enactment of Pub. L. 109-239.

Amendment by section 104(a)–(d) of Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-242, §133, Sept. 30, 2010, 124 Stat. 2613, provided that the amendment made by section 133 is effective Oct. 1, 2010.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

Amendment by Pub. L. 109-239 effective Oct. 1, 2006, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 14 of Pub. L. 109-239, set out as a note under section 622 of this title.

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-133 effective Jan. 17, 2002, with delay permitted if State legislation is required, see section 301 of Pub. L. 107-133, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

COURT IMPROVEMENT PROGRAM

Pub. L. 116-260, div. X, §7(a)-(c), Dec. 27, 2020, 134 Stat. 2413, 2414, provided that:

“(a) RESERVATION OF FUNDS.—Of the additional amounts made available by reason of section 6 of this Act [section 6 of div. X of Pub. L. 116-260, set out as a note under section 629d of this title], the Secretary shall reserve \$10,000,000 for grants under subsection (b) of this section for fiscal year 2021, which shall be considered to be made under section 438 of the Social Security Act [42 U.S.C. 629h].

“(b) DISTRIBUTION OF FUNDS.—

“(1) IN GENERAL.—From the amounts reserved under subsection (a) of this section, the Secretary shall—

“(A) reserve not more than \$500,000 for Tribal court improvement activities; and

“(B) from the amount remaining after the application of subparagraph (A), make a grant to each highest State court that is approved to receive a grant under section 438 of the Social Security Act for the purpose described in section 438(a)(3) of such Act, for fiscal year 2021.

“(2) AMOUNT.—The amount of the grant awarded to a highest State court under this subsection shall be the sum of—

“(A) \$85,000; and

“(B) the amount that bears the same ratio to the amount reserved under subsection (a) that remains after the application of paragraph (1)(A) and subparagraph (A) of this paragraph, as the number of individuals in the State in which the court is located who have not attained 21 years of age bears to the total number of such individuals in all States the highest courts of which were awarded a grant under this subsection (based on the most recent year for which data are available from the Bureau of the Census).

“(3) OTHER RULES.—

“(A) IN GENERAL.—The grants awarded to the highest State courts under this subsection shall be in addition to any grants made to the courts under section 438 of the Social Security Act for any fiscal year.

“(B) NO ADDITIONAL APPLICATION.—The Secretary shall award grants to the highest State courts under this subsection without requiring the courts to submit an additional application.

“(C) REPORTS.—The Secretary may establish reporting criteria specific to the grants awarded under this subsection.

“(D) REDISTRIBUTION OF FUNDS.—If a highest State court does not accept a grant awarded under this subsection, or does not agree to comply with any reporting requirements imposed under subparagraph (C) or the use of funds requirements specified in subsection (c), the Secretary shall redistribute the grant funds that would have been awarded to that court under this subsection among the other highest State courts that are awarded grants under this subsection and agree to comply with the reporting and use of funds requirements.

“(E) NO MATCHING REQUIREMENT.—The limitation on the use of funds specified in section 438(d) of

such Act shall not apply to the grants awarded under this section.

“(c) USE OF FUNDS.—A highest State court awarded a grant under subsection (b) shall use the grant funds to address needs stemming from the COVID-19 public health emergency, which may include any of the following:

“(1) Technology investments to facilitate the transition to remote hearings for dependency courts when necessary as a direct result of the COVID-19 public health emergency.

“(2) Training for judges, attorneys, and case-workers on facilitating and participating in remote hearings that comply with due process and all applicable law, ensure child safety and well-being, and help inform judicial decision-making.

“(3) Programs to help families address aspects of the case plan to avoid delays in legal proceedings that would occur as a direct result of the COVID-19 public health emergency.

“(4) Other purposes to assist courts, court personnel, or related staff related to the COVID-19 public health emergency.”

[For definitions of “COVID-19 public health emergency” and “Secretary” as used in section 7(a)-(c) of div. X of Pub. L. 116-260, set out above, see section 2 of div. X of Pub. L. 116-260, set out as a note below.]

DEFINITIONS

Pub. L. 116-260, div. X, §2, Dec. 27, 2020, 134 Stat. 2409, provided that: “In this Act [div. X of Pub. L. 116-260, see Short Title of 2020 Amendment note set out under section 1305 of this title]:

“(1) COVID-19 PUBLIC HEALTH EMERGENCY.—The term ‘COVID-19 public health emergency’ means the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act [42 U.S.C. 247d], entitled ‘Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus’.

“(2) COVID-19 PUBLIC HEALTH EMERGENCY PERIOD.—The term ‘COVID-19 public health emergency period’ means the period beginning on April 1, 2020 and ending with September 30, 2021.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.”

§ 629i. Grants for programs for mentoring children of prisoners

(a) Findings and purposes

(1) Findings

(A) In the period between 1991 and 1999, the number of children with a parent incarcerated in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. In 1999, 2.1 percent of all children in the United States had a parent in Federal or State prison.

(B) Prior to incarceration, 64 percent of female prisoners and 44 percent of male prisoners in State facilities lived with their children.

(C) Nearly 90 percent of the children of incarcerated fathers live with their mothers, and 79 percent of the children of incarcerated mothers live with a grandparent or other relative.

(D) Parental arrest and confinement lead to stress, trauma, stigmatization, and separation problems for children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high-crime environments, intrafamilial abuse, child abuse and neglect, multiple care givers, and/or prior separations. As a result, these children