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Child Welfare Issues in the 110th Congress

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Summary

As the U.S. Constitution has been interpreted, states have the primary obligation to ensure child welfare. However, Congress provides significant federal funds to help states exercise this responsibility ($7.9 billion appropriated in FY2008). Most of this support is provided for children who are in foster care and who meet specific federal eligibility criteria. This report discusses the federal framework for child welfare policy; reviews the scope of activities, and children and families served, by state child welfare agencies; summarizes several child welfare-related hearings that were held in 2007; describes child welfare and related legislative proposals that have been introduced in the 110th Congress; and reviews child welfare programs for which funding authorization has expired or is set to expire on the last day of FY2008.

Child welfare agencies seek to ensure the well-being of children and their families, including protecting children from abuse or neglect and ensuring that they have a safe and permanent home. In FY2006 child protection agencies found 905,000 children to be victims of abuse or neglect. Some of these children were removed to foster care, some remained in their homes and received services, while others received no further follow-up from the agency. After reaching a recorded high of 567,000 on the last day of FY1999, the number of children in foster care has declined by about 10%, and on the last day of FY2006, an estimated 510,000 children were in foster care. Less than half of these children are eligible for federal foster care support under Title IV-E of the Social Security Act.

Legislation that would respond to a number of the concerns raised in 2007 child welfare hearings has been introduced in the 110th Congress. These proposals would expand the eligible populations served with Title IV-E funds to include (potentially) all children in foster care or adopted (with special needs) from foster care (H.R. 5466, H.R. 4207, S. 2900, S. 1462, H.R. 4091, and S. 3038), as well as children leaving foster care for legal guardianship with a relative (S. 661, H.R. 2188, H.R. 5466, and S. 3038), and youth who choose to remain in foster care until their 21st birthday (S. 1512, H.R. 4208, S. 2560, and H.R. 5466). Other introduced proposals would authorize additional support for child and family services (H.R. 5466 and S. 2237); authorize or require new services or protections for children in, or about to enter, foster care (H.R. 3283, S. 379, S. 382, H.R. 687, and H.R. 5466); seek to improve services for youth who have, or are expected to, age out of care (S. 2341, H.R. 2188, H.R. 4208/S. 2560, and H.R. 3409); help support or permit access to services for kinship caregivers and further encourage their use as caregivers (S. 661, H.R. 2188, H.R. 5645, and H.R. 5466); provide new support for training or other related efforts to improve the child welfare workforce (H.R. 5466, H.R. 2314 and S. 2944); aim to improve foster and adoptive parent recruitment efforts (S. 2395 and H.R. 4198); permit direct access to federal Title IV-E funds for tribal governments (S. 1956, H.R. 4688, and H.R. 5466); and make other related changes intended to enhance the welfare of children, including requiring states to have licensing standards for certain residential programs for youth with emotional or behavioral issues (H.R. 5876), and expanding or making permanent the current Adoption Tax Credit rules (H.R. 273, H.R. 471, S. 561, H.R. 1074, H.R. 3192, and H.R. 4313). This report will be updated as legislative activity occurs.

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Federal-State Framework for Child Welfare Policy

As the U.S. Constitution has been interpreted, states have the primary obligation to ensure child welfare. At the state level, the child welfare "system" consists of state and local judges and other court personnel, prosecutors, law enforcement personnel, and public and private social service workers. These representatives of various state and local entities investigate allegations of child abuse and neglect, provide services to families in their own homes, remove children from homes if necessary, and supervise and administer payments for children in out-of-home settings.

Federal involvement in child welfare is tied to the financial assistance it provides to states to conduct these activities. In FY2008, Congress appropriated just under $7.9 billion for child welfare purposes. The bulk ($4.6 billion) of this money was appropriated to reimburse states for the cost of providing foster care for children who meet federal eligibility criteria (estimated 43% of national foster care caseload in FY2006). Beginning in the early 1960s, the federal government has paid for part of the cost of foster care for children who would have been entitled to federally assisted cash welfare had they continued to live in their own homes. (In essence, the cash aid was expected to follow the child into foster care.) States had primary responsibility to pay the full foster care costs for other children who were removed from their homes. In the 1996 welfare reform law (P.L. 104-193), Congress ended the entitlement to cash aid for needy families with children and converted funding for this purpose to a block grant. At the same time, it continued to require that only children removed from homes that would have met the eligibility requirements for cash aid under the state's pre-1996 welfare-reform rules would be eligible for federal foster care assistance.

As a condition of receiving these foster care and other child welfare funds, states are required to abide by a series of federal child welfare policies.[1] Federal child welfare policies focus, overall, on ensuring safety and well-being for all children served. However, the most specific and extensive requirements are designed for the protection of children in foster care, especially to ensure them a safe and permanent home. These protections must generally be provided to all children in foster care, regardless of whether they meet federal foster care eligibility criteria. State compliance with the majority of these federal requirements is checked as part of the Child and Family Services Review (CFSR). A state that is *not* in "substantial conformity" with federal child welfare policy—as determined by the review—must implement a Program Improvement Plan (PIP). The state typically has two years to implement a PIP. The PIP must successfully address the compliance issues identified by the CFSR or the state faces a loss of a part of their federal child welfare funding.[2]

[1] For more information about specific program requirements, see CRS Report RL31242, *Child Welfare: Federal Program Requirements for States*, by Emilie Stoltzfus.

[2] The CFSR was designed by HHS to meet the conformity review requirements mandated by Congress in 1994 (P.L. 103-432) and enacted as Section 1123A of the Social Security Act. The initial round of the CFSR was conducted from 2001 through 2004, and all states were required to take some corrective actions. A second round of reviews is now underway and is expected to continue into FY2010. For more information, see CRS Report RL32968, *Child Welfare: State Performance on Child and Family Services Reviews*, by Emilie Stoltzfus.

Child Maltreatment and Children in Foster Care

In FY2006, an estimated 905,000 U.S. children, or about 12.1 children for every 1,000 in the general population, were found to be victims of abuse or neglect; an estimated 1,530 children died due to abuse or neglect in that year. The rate of reported child maltreatment victims has been about 12 children per 1,000 children in the national population in every year since 1999. This rate is well below the recorded highs in the early to mid-1990s (1992-1996), when the rate ranged around 15 victims for every 1,000 children in the population and the number of child victims was counted as more than 1 million annually. (See **Table 1**.) For FY2006, states reported 64% of child victims experienced neglect, 16% were found to have experienced physical abuse, 9% sexual abuse, 7% psychological maltreatment, 2% medical neglect, and 14% "other abuse."[3] These shares were fairly constant between 2000 and 2006, although the rate of children found to have experienced neglect increased somewhat while the rate of children found to have experienced physical abuse or sexual abuse declined somewhat.[4]

Preliminary estimates show 510,000 children were in foster care on the last day of FY2006 (or about 6.8 per every 1,000 children in the general population). This represents a modest decline from the estimated 511,000 children in care on the last day of FY2005, but is well below the recorded high of 567,000 children in care on the last day of FY1999 (when there were about 8.0 children in foster care per 1,000 in the population).[5] (See **Table 1**.)

Overall, the national foster care caseload declined by about 10% between FY1999 and FY2006; however, this decline has not been shared by all states. Between FY1999 and FY2006 (most recent year state-level data are available), less than half of all the states (24, including Puerto Rico and the District of Columbia) reported reductions in their foster care caseload, ranging from a less than 1% decline in Connecticut (40 children) and Michigan (200 children) to a nearly 47% decline in Illinois (16,000 children). Along with Illinois, California and New York posted the greatest numerical and percentage change declines in their caseloads between the last days of FY1999 and FY2006: California's caseload dropped by close to 40,000 children (34% decline); New York's caseload declined by more than 21,000 children (41% decline).[6] Over the FY1999-FY2006 time period, slightly more states (27) posted increases in their caseloads.[7] These ranged from an increase of about 3% (more than 300 children) in Massachusetts to increases of 93% (close to 900 children) in Idaho, 89% in Texas (nearly 15,000 children) and 86% in Iowa (more than 4,000 children). In addition, five states (WY, SD, OK, AZ, and WV)[8] saw caseload increases

[3] Some children experience more than one type of maltreatment. These percentages total more than 100 because a child may be included in as many categories as the types of maltreatment he or she experienced.

[4] U.S. Department of Health and Human Services, Administration on Children and Families, Children's Bureau, *Child Maltreatment 2006*, (April 2008) (hereafter *Child Maltreatment 2006* [or another year in the series]) and unpublished state-reported data received from the Children's Bureau.

[5] The number of children in foster care includes some youth age 18 or older. However, the comparison to the general population is made with population estimates of individuals age 17 or younger.

[6] The state of Maine also saw a caseload decline of more than 34% over those same years, which reduced the number of children in the state's caseload by more than 1,000 (with nearly all of the decrease occurring since FY2002).

[7] Mississippi's caseload was virtually unchanged between the last day of FY1999 (3,196 children in care) and the last day of FY2006 (3,203 children in care). It is not included in the count of states showing an increased caseload.

[8] The percentage increase and the increased number of children this represents for these states are: WV - 33%, 1,100 children; AZ - 38%, 2,700 children; OK - 45%, 3,600 children; SD - 50%, 550 children; WY - 68%, 520 children.

in their foster care caseloads ranging from roughly one-third to two-thirds between the last day of FY1999 and the last day of FY2006.[9]

The overall number of children in care on the last day of a given year rises or falls depending upon both the number of entries to foster care, that is children who are removed from their homes in a given year, and the number of exits in that same year, that is children reunited with their families, adopted, emancipated, or placed in another permanent setting. Nationally, the number of children reported as having exited foster care has risen from an estimated 250,000 in FY1999 to an estimated 289,000 in FY2006. (However, this is understood as an undercount because some states do not report all exits from foster care.[10]) Nationally, the number of children who entered foster care may be trending up. During FY2006 (most recent year for which data are available), the number of children who entered foster care in FY2006 was estimated as 303,000 compared to 293,000 children who entered in FY1999. **Table 1** indicates that this represents a rate of about 4.1 children per 1,000 in the population in both of those years. However, during the period of greatest recorded decline in the national caseload, FY2000 through FY2004, the rate of children entering foster care also declined, reaching a low point of 3.9 in FY2003.

Table 1 shows national estimates of the total number and the rate (i.e. the number of children per 1,000 in the population) who were found to be victims of child maltreatment, who entered foster care, and who were in care on the last day of the fiscal year.

Table 1. National Estimates of Children Found To Be Victims of Abuse or Neglect, Entering Foster Care, and Remaining in Foster Care, 1990-2006

(Rate refers to the number of children per 1,000 in the general child population)

Year[a]	Children Found to Be Victims of Abuse or Neglect[b]		Entering Foster Care During the Year[b]		In Foster Care on the Last Day of the Year[b]	
	Total	Rate	Total	Rate	Total	Rate[c]
1990	860,000	13.4	238,000	3.7	400,000	6.2
1991	911,000	14.0	224,000	3.4	414,000	6.4
1992	998,000	15.1	238,000	3.6	427,000	6.5
1993	1,025,000	15.3	230,000	3.4	445,000	6.6
1994	1,031,000	15.2	254,000	3.7	468.000	6.9
1995	1,006,000	14.7	255,000	3.7	483,000	7.0
1996	1,015,000	14.7	237,000	3.4	507,000	7.3
1997	953,000	13.7	251,000	3.6	537,000	7.7
1998	904,000	12.9	299,000	4.2	559,000	7.9
1999	828,000	11.8	293,000	4.1	567,000	8.0

[9] Caseload changes are based on children reported in care on the last day of FY1999 compared to those reported in care for the last day of FY2006. Available data includes 49 states, plus DC, and PR. Data for NV are not available for FY1999, so the state is excluded from this analysis. Based on caseload data compiled by U.S. Department of Health and Human Services, Administration of Children and Families, Children's Bureau, from the Adoption and Foster Care Analysis Reporting System (AFCARS). FY2006 caseload estimates are as reported by states as of March 2008; FY1999 caseload estimates are as reported by states as of April 2005. Hereafter USDHHS, Caseload Estimates, March 2008 and April 2005.

[10] See discussion following footnotes in U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, "Trends in Adoption and Foster Care, 2000-2006" (according to data submitted as of January 2008).

Year[a]	Children Found to Be Victims of Abuse or Neglect[b]		Entering Foster Care During the Year[b]		In Foster Care on the Last Day of the Year[b]	
	Total	Rate	Total	Rate	Total	Rate[c]
2000	883,000	12.2	293,000	4.0	552,000	7.5
2001	905,000	12.5	296,000	4.0	545,000	7.4
2002	910,000	12.3	295,000	4.0	523,000	7.1
2003	905,000	12.2	289,000	3.9	510,000	6.9
2004	892,000	12.0	298,000	4.0	507,000	6.8
2005	900,000	12.1	308,000	4.1	511,000	6.9
2006	905,000	12.1	303,000	4.1	510,000	6.8

Source: Child abuse and neglect victims and rate are as reported in U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Children's Bureau, *Child Maltreatment 2004*, April 2006, Table 3-3, as amended and updated by *Child Maltreatment 2006* (April 2008), Table 3-2. Children entering, and in, foster care FY1990-FY1997 are based on estimates provided in U.S. Congress, House of Representatives, Committee on Ways and Means, *Green Book 2004*, and for remaining years are based on estimates (final, interim, or preliminary) provided by HHS, ACF, Children's Bureau.

Note: Child population data used to calculate the rates of children entering or in care are not shown in this table but are drawn from U.S. Census Bureau population estimates for individuals under the age of 18. The population estimates used included children in all 50 states, the District of Columbia, and (beginning with 1998) Puerto Rico.

a. Data on child maltreatment victims were reported by calendar year from 1990 through 2002 and by fiscal year in 2003 and each year thereafter. Reporting methodologies related to children entering or in care varied over time. However, beginning no later than 1995, estimates of children entering foster care refer to those who entered at any time during the fiscal year and for children in foster care refer to those in care on the last day of the fiscal year.

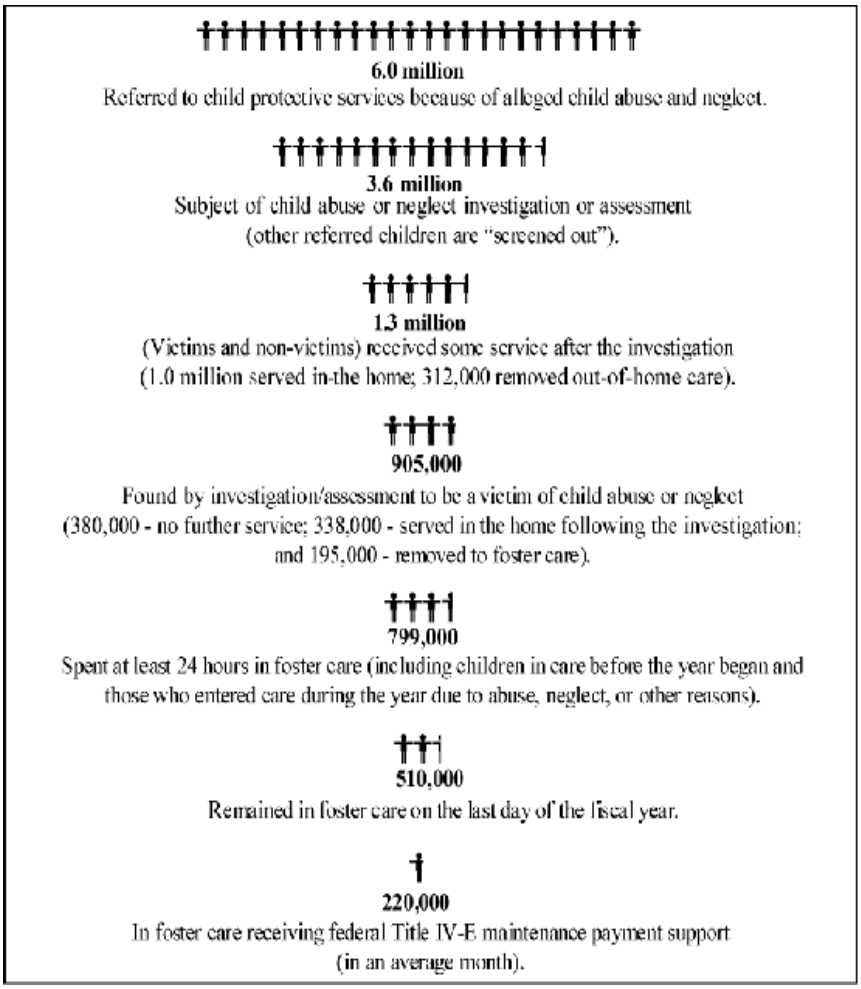
b. Data from Puerto Rico is estimated regarding child maltreatment for the first time in 2002 and regarding entries to foster care and children in foster care beginning, at least, with 1998.

c. A relatively small, but possibly growing number of children in foster care are 18 years of age or older. These youth are included in the calculation of the rate, even though the population estimates used are of individuals under the age of 18 only.

Scope of Children and Families Served

Federal child welfare policy has sometimes been considered synonymous with foster care policy, and most federal dedicated funding and policy proscriptions are related to children in foster care. At the same time, the mission of child welfare agencies, as described in federal policy, and the group of children and families those agencies work with, is far broader.

Figure 1. Children Brought to the Attention of, or Served by, Child Welfare Agencies; National Estimates 2006



Source: U.S. Department of Health and Human Services, *Child Maltreatment 2006* (April 2008); Adoption and Foster Care Analysis Reporting System, "Trends in Foster Care and Adoption" (January 2008); State Title IV-E foster care expenditure claims for FY2006.

During FY2006 (most recent data available), states received allegations of abuse or neglect related to roughly six million children. Many of these allegations were "screened out," and no further attention was given to the case. A screen out might occur because the alleged behavior does not match the state definition of child abuse or neglect, because the case is transferred to another agency (considered by the child protective services agency to be more appropriate), because not enough information was provided to follow up on the allegation, or for other reasons. In the end, states conducted investigations or assessments of abuse or neglect involving some 3.6 million children during FY2006 and found more than 905,000 children to be victims of child abuse or neglect. States also reported providing post-investigation services to an estimated 1.3 million children, including some of those who were found to be victims as well as some who were not found to be victims. Most of these children (77%) were served in their homes, and the remainder were removed to foster care.[11]

[11] *Child Maltreatment 2006.*

Although the number of children receiving some services after the investigation (1.3 million) exceeds the number of victims (905,000), not all victims received post-investigation services.[12] Instead, the data reported by states suggest that roughly three out of every five victims received any services following the investigation. Overall, states reported that, among children found to be victims of child maltreatment, an estimated 22% were removed to foster care, and roughly equal portions of the remaining victims were either served in their homes (37%) or received neither in-the-home nor out-of-the home services following the investigation (41%). Among the children who were *not found* to be "victims" in the investigation, states reported that more than 4% were removed to foster care, close to 26% received services in the home, and the remaining 70% received neither in-the-home nor out-of-the-home services following the close of the investigation.[13]

Finally, during FY2006, states reported serving some 799,000 children for at least one day (24 hours) in foster care. This number includes some children who were in care at the beginning of the year and some of those who entered care during that fiscal year—whether due to abuse or neglect or another reason (e.g., child behavior). On the last day of the fiscal year (September 30, 2006), an estimated 510,000 children were in foster care.[14]

Activities of the Child Welfare Agency

Federal statute authorizes state child welfare agencies to use federal funds to offer a broad range of services and other activities toward the central goals of ensuring the well-being of children and their families and ensuring that children have safe and permanent homes.[15] These services and activities may take a variety of forms and include the following:

- efforts to educate the public about child abuse or neglect and how to report suspected maltreatment;
- efforts to prevent child abuse and neglect and improve child and family well-being generally (such as provision of community-based family support services like parenting education classes);
- procedures to identify children who have been abused or neglected (such as operating a hotline to receive and screen referrals and investigating abuse or neglect allegations);
- procedures and services to protect children from unsafe home situations by providing services to prevent the need for their removal (such as parenting education, respite care, counseling, or mental health, substance abuse or other

[12] Ibid. Not all states reported data on the number of victims and non-victims served following an investigation. The total numbers and shares of victims served, or not served, are national estimates using data provided by reporting states. These data should be treated as rough estimates.

[13] Children who are non-victims may nonetheless be served because of risk factors identified during the course of the investigation and consequent efforts intended to prevent future abuse or neglect. The reason that children counted as "non-victims" are sometimes removed from their homes is not fully understood. These children may be the siblings of other children who have been found to be victims of maltreatment, they may have been removed for alternative reasons (e.g., child behavior issue), or there may be other issues (including those related to how states report these data).

[14] U.S. Department of Health and Human Services, Adoption and Foster Care Analysis Reporting System (AFCARS) data, "Trends in Foster Care and Adoption, FY2002-FY2006." (Based on data submitted by states as of January 2008.)

[15] These broad goals are most clearly expressed in the federal regulations promulgated as part of implementing the Title IV-B, Subpart 2 program (now known as the Promoting Safe and Stable Families program). See "Principals of Child and Family Services," at *U.S. Code of Federal Regulations* 45*CFR* 1355.22.

treatment services); or, when necessary, finding a temporary foster home for children and supporting their stay in foster care;

- services and activities to enable children removed to foster care to be returned to their families (e.g. permanency planning; counseling; mental health, substance abuse, or other treatment services; parenting education; or other supports for children or their parents);
- for children and youth who cannot be reunited with their biological parents, services and activities to enable them to be placed in another permanent family (e.g. locating and supporting adoptive parents or fit and willing legal guardians for those children and youth); and
- procedures to identify children likely to "age out" of foster care without finding a permanent family and services and activities to enable these youth to succeed as independent adults (including services and support to youth who have already aged out of the foster care system).

Federal Child Welfare Funding in FY2008

For FY2008, Congress made available just under $7.9 billion in dedicated child welfare funding. By far the largest amount of this funding is made available for states to help support and provide certain casework activities (e.g. permanency planning) for eligible children who have been removed from their birth families—primarily due to abuse or neglect. These include children in foster care ($4.6 billion) and children who have been adopted (primarily out of foster care) ($2.2 billion). A smaller amount of FY2008 federal child welfare funding ($763 million) is distributed to all states for a wide range of child and family services and activities. These include to identify and assess children at risk of child maltreatment; prevent the removal of children from their homes when possible; plan for and permit the safe reuniting of children in foster care with their parents (or when this is not possible, plan for and find another permanent home for children in foster care); and, overall, to provide services intended to ensure the safety and well-being of children in their homes (whether with biological parents, other relatives, or in foster or adoptive families). Separately, states receive some funding ($185 million in FY2008) to help youth that are expected to leave foster care without being placed in a permanent home (or for those who have already done so) to successfully make the transition to independent adulthood. Finally, funds totaling $173 million in FY2008 is made available (mostly as competitive grants to eligible entities) primarily for support of research, demonstration or pilot programs, services and other activities related to child welfare.[16]

Federal Program Administration

Nearly all federal child welfare programs are administered by the Children's Bureau, within the Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS). A handful of programs (authorized by the Victims of Child Abuse Act and related primarily to court adjudication of child abuse cases) are administered by the Office of Justice Programs within the Department of Justice.

[16] For more information, see CRS Report RL34121, *Child Welfare: Recent and Proposed Federal Funding*, by Emilie Stoltzfus.

Congressional Committee Work

In Congress, the House Ways and Means Committee and the Senate Finance Committee typically report legislation related to the largest child welfare programs, all of which are authorized under the Social Security Act. These include the Title IV-B programs (Child Welfare Services and Promoting Safe and Stable Families) and the Title IV-E programs (Foster Care and Adoption Assistance, Adoption Incentives, and the Chafee Foster Care Independence Program, including Education and Training Vouchers).

At the same time, the House Education and Labor Committee and the Senate Health, Education, Labor, and Pensions (HELP) Committee generally report bills amending the grant programs authorized under the Child Abuse Prevention and Treatment Act (CAPTA). That law authorizes grants to states to improve child protective services; grants for research, demonstrations, and other activities; and grants for community-based services to prevent child abuse and neglect.[17] Those same committees have typically dealt with legislative proposals related to two additional and freestanding programs: Adoption Opportunities and Abandoned Infants Assistance. Finally, several other committees deal with a variety of competitive grant programs related to child welfare purposes (see **Table 2**).

Funding Authority

Many federal social service programs, including some child welfare programs, have discretionary and time-limited funding authorizations. This gives Congress the discretion to appropriate funds for the program (generally up to the amount specified in the authorizing law) for a specific number of years (e.g., for FY2004-FY2008). A discretionary funding authorization is said to "expire" once the last year of the funding authorization is completed. Although Congress may sometimes choose to appropriate funds even after the expiration of the funding authorization, congressional committees that authorize federal programs often use these dates as a time to revisit how the programs are working and to consider "reauthorization" legislation.

Other child welfare programs have mandatory funding authorizations—either capped (meaning the amount of funding that must be provided is specified in the authorizing statute) or open-ended (meaning the funding level is ultimately determined by the value of eligible claims submitted by states). The funding for some of these child welfare programs is authorized on a time-limited basis (like the discretionary authorizations discussed above), while for others it is authorized on a "permanent" basis. A permanent funding authority may only be ended by repealing the law that provides for this authority. For programs with a permanent funding authority, there is no need for "reauthorization" legislation. All the same, just as with programs that have time-limited funding authorities, an authorizing committee may propose to amend the program at any time.

Table 2 shows selected federal child welfare programs by funding authority (kind, expiration, and level of the program's current, or most recent, certain sum funding amount); FY2008 appropriation level; and committee that has previously exercised jurisdiction over the program.

[17] In addition to those three grant programs, Section 107 of CAPTA contains the program authority for grants to all states to improve the handling and prosecution of child abuse and neglect cases. These grants were initially authorized by the Children's Justice Act of 1986 (Title I of P.L. 99-401) but program authority was subsequently moved to CAPTA. At the same time, authority to *fund* these grants is not provided in CAPTA but remains in a separate law. That law, the Victims of Crime Act of 1984 (P.L. 98-473, as amended), authorizes a set-aside of up to $20 million annually (out of the Crime Victims Fund) for these grants.

Table 2. Selected Child Welfare Programs by Funding Authority, FY2008 Appropriation (Enacted Funding), and Committee

(Funding authority amount is shown as the most recent certain sum funding amount authorized. If a program's funding authority has expired, the amount of funding authorized at the time of expiration is displayed in brackets.)

Program	Funding Authority			FY2008 Approp.	Committees[a]
	Kind	Expiration	Amount		
Title IV-B of the Social Security Act					
Child Welfare Services (Subpart 1)	discretionary	FY2011	$325 million	$282 million	House: Ways and Means Senate: Finance
Promoting Safe and Stable Families Program (Subpart 2)	discretionary and capped mandatory	FY2011	$545 million	$408 million	
Title IV-E of the Social Security Act					
Foster Care	open-ended mandatory	permanent	amount necessary to pay all eligible claims	$4.6 billion[b]	House: Ways and Means Senate: Finance
Adoption Assistance	open-ended mandatory	permanent		$2.2 billion[b]	
Adoption Incentives	discretionary	FY2008	$43 million	$4 million	
Chafee Foster Care Independence Program (CFCIP)	capped mandatory	permanent	$140 million	$140 million	House: Ways and Means Senate: Finance
Education and Training Vouchers (CFCIP)	discretionary	permanent	$60 million	$45 million	
Child Abuse Prevention and Treatment Act					
State Grants	discretionary	FY2008	$120 million[c]	$27 million	House: Education and Labor Senate: Health, Education, Labor and Pensions (HELP)
Discretionary Activities	discretionary	FY2008		$37 million	
Community-Based Grants to Prevent Child Abuse and Neglect	discretionary	FY2008	$80 million[c]	$42 million	
Victims of Child Abuse Act					
Court Appointed Special Advocates	discretionary	FY2011	$12 million	$13 million	House: Judiciary Senate: Judiciary
Children's Advocacy Centers	discretionary	FY2005	[$20 million]	$17 million	
Training for judges and judicial practitioners	discretionary	FY2005	[$2 million]	$2 million	

Program	Funding Authority			FY2008 Approp.	Committees[a]
	Kind	Expiration	Amount		
Other Programs					
Adoption Opportunities	discretionary	FY2008	$40 million	$26 million	House: Education and Labor Senate: HELP
Abandoned Infants Assistance	discretionary	FY2008	$45 million	$12 million	
Adoption Awareness	discretionary	FY2005	[such sums as may be necessary]	$12 million	House: Energy and Commerce Senate: HELP

Source: Table prepared by Congressional Research Service (CRS).

a. The committees listed are those committees that reported the legislation that initially authorized the program (or reported the most recent legislation amending or reauthorizing the program).

b. The amount of funds provided for the Title IV-E Foster Care and Adoption Assistance programs is based on the amount of funds the Administration estimates it will need to reimburse eligible claims under those programs for the fiscal years. Any funds not needed for this purpose are returned to the treasury; alternatively if not enough funds have been provided, Congress must provide the funds necessary to reimburse the eligible claims.

c. For FY2004, P.L. 108-36 provided a combined funding authorization of $120 million for CAPTA state grants and discretionary activities, along with a separate authorization of $80 million for CAPTA Community-Based grants. Both funding authorizations were continued for each of FY2005 through FY2008 at "such sums as may be necessary."

Child Welfare Hearings in the 110th Congress

In 2007, the House Ways and Means Subcommittee on Income Security and Family Support, the House subcommittee that has exercised jurisdiction over the largest share of federal child welfare programs, held several hearings that were directly related to child welfare policy. In addition to the hearings discussed below, in February 2008 that subcommittee held a hearing to receive testimony on the Investment in Kids Instruction Development and Support Act (Invest in KIDS Act, H.R. 5466), which was introduced by Representative Jim McDermott, who chairs the subcommittee.[18] As of mid-June 2008, no hearings have been held in the Senate during the 110th Congress that focused primarily on child welfare.

Challenges Facing the Child Welfare System

The first of these hearings, and the broadest in scope, was held on May 15, 2007, and sought to identify the major challenges facing the child welfare system.[19] Witnesses at the hearing included representatives of the American Public Human Services Association (APHSA), the Government Accountability Office (GAO), Casey Family Programs (a private foundation that both provides foster care services and supports research to improve those services), an independent consultant (who was also a former child welfare administrator), and the first lady of Virginia (who previously served as a judge in juvenile and domestic relations court).

[18] The hearing to receive testimony on the introduced bill is not discussed in this report. However, you can view the written testimony at http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=612.

[19] U.S. Congress, House Ways and Means Committee, Income Security and Family Support Subcommittee, "Hearing on Challenges Facing the Child Welfare System," May 15, 2007, available at http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=559.

Witnesses most often highlighted concerns related to

- the availability or adequacy of services provided to families and children (including services to prevent placement, reunite families, or to sustain permanence via post-reunification, post-adoption, or guardianship supports and services);
- the recruitment of foster homes for children, especially older children and those with special needs; and
- ensuring adequate child welfare workforce staffing and training, and availability of federal funds for child welfare purposes.[20]

Other specific challenges cited included disproportionate representation of African-American children (and other racial or ethnic minority groups) in the child welfare system, and providing adequate services to youth in foster care, as well as those who leave the system without being placed in a permanent home (i.e., those who "age-out").

Recommendations

With regard to the availability and adequacy of services, witnesses noted both the difficulty and necessity of cross-system collaborations to treat child and family health, mental health, or substance abuse issues, and to respond to housing and education needs. They also cited the importance of addressing how federal funds are distributed for child welfare purposes. Among the recommendations for change with regard to recruitment and retention of foster families, witnesses suggested the need to focus on recruiting families willing and able to care for older children in foster care or those with special needs and to better prepare foster parents (both kin and non-kin) to adequately meet these needs. Recommendations on workforce issues included setting national standards for the number of cases that may be assigned to a single child welfare caseworker as well as providing standards for staff levels needed among workers who receive and screen calls alleging abuse or neglect ("hotline" workers). Improved training, support, and accountability for supervisors and caseworkers was recommended. Finally, a number of witnesses stressed the importance of accountability. Although some cited the federal Child and Family Services Review (CFSR) as a positive step, others sought greater efforts in this regard. Some witnesses also stressed the value and necessity of HHS-supported training and technical assistance to improve child welfare practice.

Youth Aging-Out of Foster Care

At a June 19, 2007, hearing, the Subcommittee on Income Security and Family Support looked broadly at issues facing vulnerable youth populations—including those who are homeless or "disconnected" (i.e., those not in school or employed) and those who "age-out" of foster care.[21] Several witnesses at this hearing spoke about children in foster care and their need for educational stability.[22] On July 12, the subcommittee held a hearing specifically concerning the support

[20] These concerns generally echoed or expanded on the challenges identified most frequently by state child welfare administrators in a survey conducted by the U.S. Government Accountability Office (GAO) between October 2005 and August 2006. See U.S. GAO, *Child Welfare: Improving Social Service Program, Training, and Technical Assistance Information Would Help Address Long-standing Service Level and Workforce Challenges*, GAO-07-75, October 2006.

[21] U.S. Congress, House Ways and Means Committee, Income Security and Family Support Subcommittee, "Hearing on Disconnected and Disadvantaged Youth," June 19, 2007, available at http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=569.

[22] Ibid. See testimony of Representative Michele Bachmann, who has been a foster parent, and of Dan Lips, an

services and activities available to those youth in foster care who upon reaching the state age of majority (typically on their 18th birthday) leave state custody without being reunited with their birth family or placed in another permanent family.[23] (These independent adolescents are frequently referred to as youth who have "aged out.") Witnesses at the July 12 hearing included Representative Dennis Cardoza (who is the father of two children adopted from foster care); the GAO; several youths who had "aged out" of foster care; and, representatives of research and advocacy groups who are interested in learning about, and improving, the outcomes for youth who age out of foster care.[24]

Advocates and researchers noted that although some youth managed to do well when they left care, in many cases youth aging out of foster care had low educational attainment, experienced homelessness, were unable to pay bills (e.g. rent, utilities), experienced early pregnancy or parenthood, or had relatively frequent involvement with the criminal justice system. Researchers testified that independent living services for youth varied widely by state[25] and were "spotty," with one survey showing that less than half of youth exiting foster care receive transitional services related to vocational training and employment, budgeting and financial management, health education, housing, and services to promote youth development. At least half did indicate they had received some educational support.[26]

Recommendations

The youth who testified stressed the critical importance of working to create permanent connections for youth *before* they leave foster care—by matching the youth with a permanent supportive family, including relative families, or, at the least, by helping the youth connect with an adult mentor. Some suggested that youth should have the option to remain in foster care custody until at least age 21 (with federal support), called on child welfare agencies to pay greater attention to sibling connections for youth in care, and, overall, emphasized the necessity of supports and services for youth who age out of foster care. Researchers and advocates testifying also noted the critical importance of finding permanence for foster youth by creating adult connections for them. They further highlighted the need to provide services and supports related to housing, financial literacy, employment, education, and job training. Finally, some emphasized the importance of private foundation or other community engagement on the issue of youth aging out of foster care and called for better data on outcomes for youth and the services that are now offered.[27]

Education Analyst at the Heritage Foundation.

[23] For information about federal support services see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs* , by Adrienne L. Fernandes.

[24] U.S. Congress, House Ways and Means Committee, Income Security and Family Support Subcommittee, "Hearing on Children who 'Age Out' of the Foster Care System," July 12, 2007; http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=576.

[25] Testimony from the GAO about wide variety in independent living services (as well as information available about those services) was based, in part, on a 2004 survey of state independent living programs discussed in U.S. GAO, *Foster Youth: HHS Actions Could Improve Coordination of Services and Monitoring of States' Independent Living Programs,* GAO-05-25, November 2004. Available at http://www.gao.gov/new.items/d0525.pdf.

[26] Testimony from Mark Courtney, based on findings from the three-state "Midwest Evaluation of Adult Functioning of Former Foster Youth." To learn more, see http://www.chapinhall.org/article_abstract.aspx?ar=1355.

[27] In 1999 (P.L. 106-169) Congress required development of a national data system to track outcomes for youth aging out of foster care. The system has not been implemented yet, but a notice of proposed rule making was published in July 2006. For more information, request a copy of CRS Congressional Distribution Memorandum, "Notice of Proposed Rule Making to Implement the Chafee Foster Care Independence Act Database," by Adrienne Fernandes,

Health Care for Children in Foster Care

On July 19, 2007, the subcommittee held a hearing to review the health and mental health status of children in foster care, as well as their access to needed services. Witnesses included researchers; medical doctors, including a representative of the American Academy of Pediatrics (AAP); and a state child welfare administrator (representing APHSA).[28]

The witnesses referenced studies showing that children in foster care have high rates of physical and mental health needs. A recent research review concluded that 35% to 60% of children in foster care have at least one chronic health issue or a significant acute health condition. And a nationally representative study of children in foster care for at least one year (ages 2-14) found that nearly half (47%) had clinically significant emotional or behavioral issues. Children in foster care are typically eligible for Medicaid and should receive screening and treatment under that program's Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) component. Further, many children in foster care are eligible for services under the Individuals with Disabilities Education Act (IDEA), but identification of the need for such services and access to them is not always provided.[29]

Recommendations

Witnesses at the July 19 hearing stressed the importance of early identification of problems. They noted the importance of establishing channels for coordination between health, mental health, education, and child welfare agencies to ensure that timely assessments are made and appropriate treatment is offered. Testimony regarding the prescription of psychotropic medication for children in foster care stressed the importance of a clinical review of a child's medical history and need, as well as clear consent protocols. The critical importance of access to complete medical histories for children in foster care was also raised. Proposals related to creating electronic records (e.g. web-based) to store and permit needed access to medical histories, as well as establishment of a "medical home" for each child in foster care were discussed.[30]

Prescription Psychotropic Drug

On May 8, 2008, the subcommittee held a hearing to review the prescription of psychotropic drugs for children in foster care. Witnesses included health researchers, state administrators, a representative from the Foster Care Alumni of America, and the medical director of a private residential treatment school for children.[31]

August 28, 2006.

[28] U.S. Congress, House Ways and Means Committee, Subcommittee on Income Security and Family Support, "Hearing on Health Care for Children in Foster Care," July 19, 2007; http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=578.

[29] Ibid. See written testimony of John Landsverk, Director, Child and Adolescent Services Research Center, Rady Children's Hospital and Senior Scholar, George Warren Brown School of Social Work, Washington University, St. Louis.

[30] A "medical home" refers to treatment of one child by one pediatrician/pediatric practice.

[31] For more information see U.S. Congress, House Ways and Means Committee, Subcommittee on Income Security and Family Support, "Hearing on the Utilization of Psychotropic Medication for Children in Foster Care," May 8, 2008; http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=631

Legislative Proposals for Change

The 109th Congress enacted numerous changes intended to improve and strengthen child welfare services, including a number of new requirements that states must meet related to children in foster care.[32] Many proposals to further amend federal child welfare policy continue to be debated. Legislation that would respond to a number of the concerns raised in the child welfare hearings held during 2007, including proposals to change the federal child welfare financing structure, has been introduced in the 110th Congress. The bills introduced would expand the eligible populations served with Title IV-E funds and provide some additional support for child and family services. (**Appendix A** discusses several child welfare financing proposals made outside of Congress—including a proposal by the Bush Administration—that have influenced or continue to influence legislative proposals.)

Other legislative proposals would authorize or require new services and protections for children in (or about to enter) foster care; seek to improve services for youth who are aging out of care (including those who have already exited due to age); encourage greater access to a range of services for kinship caregivers and further encourage their involvement as decision-makers and use as caregivers for children who cannot remain safely with their parents; aim to improve foster and adoptive parent recruitment efforts of state child welfare agencies; permit direct access to federal Title IV-E funds for tribal governments; and make other related changes intended to enhance the safety, permanence, and well-being of children.

These legislative proposals are described in greater detail below. Most of the bills discussed would amend child welfare programs and policy that currently exist; however, some would create new and freestanding programs or would amend other social service or education programs. An effort was made to identify bills with proposals that highlight a wide range of child welfare policy concerns and that would be expected to affect the primary populations served by the child welfare agency (as well as the child welfare agency itself). At the same time, this discussion is not comprehensive and inclusion of a bill (or exclusion) is not intended to suggest the viability (or lack of viability) for a given proposal.

Proposals to Expand Title IV-E Eligible Populations

A number of bills would expand the population of children who are eligible for federal assistance under Title IV-E of the Social Security by de-linking the program (or parts of it) from the eligibility rules of the former federal cash welfare program (repealed in 1996 by P.L. 104-193). That program was known as Aid to Families with Dependent Children (AFDC). Additional bills would further expand the population of children who may be served with Title IV-E dollars by permitting eligible children leaving foster care for legal guardianship (in a relative's home) to receive Title IV-E support and by extending the age at which youth could remain eligible for Title IV-E foster care support to 21 years of age.

De-Link Foster Care and Adoption Assistance from AFDC Rules

The overall share of children in the national foster care caseload who are eligible for Title IV-E foster care support has been in decline. This share was estimated to be less than half of all children in foster care in FY2006 (43%) compared to a high of 51%-55% in the mid-to late

[32] See CRS Report RL34252, *Child Welfare: Federal Policy Changes Enacted in the 109th Congress*, by Emilie Stoltzfus.

1990s.[33] Three bills would de-link federal Title IV-E foster care and adoption assistance eligibility from the income (and all, or most, other eligibility rules) of the prior law AFDC program: The Investment in Kids Instruction, Development and Support Act, or Invest in KIDS Act (H.R. 5466), an omnibus child welfare policy bill introduced by Representative Jim McDermott; the Partnership for Children and Families Act (H.R. 4207/S. 2900), introduced by Representative Shelley Berkley and Senator Sherrod Brown; and the Place to Call Home Act (H.R. 3409), an omnibus youth policy bill introduced by Representative Ruben Hinojosa.[34] This change would potentially expand eligibility for federal foster care maintenance payments and adoption assistance subsidies to include any child in foster care as well as any child adopted from foster care who meets state "special needs" criteria.

Share of Eligible Children

There are multiple criteria for federal Title IV-E eligibility (see **Appendix B**) and wide variation among states in the estimated share of children in foster care who meet these eligibility criteria. No simple correlation between a state's 1996 income eligibility rules and the share of its foster care caseload that is Title IV-E eligible can be established. Nonetheless, the current law requirement that links Title IV-E foster care (and in most cases adoption assistance) eligibility to the income rules of the now-repealed AFDC program is viewed by many as an explanation for the recent decline in the share of children who are eligible for federal foster care support. Specifically, federal law requires a state to "look back" to, and apply, the income and other eligibility rules that were in use in the state (on July 16, 1996) under the prior law cash welfare program, AFDC.[35]

This requirement has limited Title IV-E eligibility to children from families whose incomes represent a declining share of the federal poverty guidelines. In 1996, the median value of all states' AFDC income tests for a family of three was equal to 60% of the federal poverty level; by 2007 this median value had slipped to 45%. In fully two-thirds of the states (34, including DC) the Title IV-E income eligibility test for a family of three is now less than 50% of the federal poverty guideline for a family of three (or less than $8,585).[36]

Nature of Funding

There is no upper (or lower) limit on federal Title IV-E foster care (or adoption assistance) funding to states. Instead, the federal government is committed to sharing a fixed part of every

[33] There are various ways to estimate this coverage rate on a national basis and the coverage rates shown here are based on the average monthly number of children claimed by states as eligible for Title IV-E foster care maintenance payments (expenditure data) in a given fiscal year compared to the number of children the state reported in foster care on the last day of the same fiscal year (Adoption and Foster Care Analysis and Reporting System, AFCARS data). For example, there were an estimated 510,000 children in care on the last day of FY2006, and during that year, states submitted Title IV-E foster care maintenance payment claims for an average monthly number of 220,000 children in foster care.

[34] H.R. 5466 would strike all references to the prior AFDC program with regard to eligibility. However, for purposes of federal Title IV-E eligibility, H.R. 3409 and H.R. 4207 would continue to require that a child must have been removed to foster care from the home of a specified relative as defined in the prior law AFDC program.

[35] Although the current link was established by the 1996 welfare reform measure (P.L. 104-193), the initial link between eligibility for cash aid and federal reimbursement for foster care expenses was established in the early 1960s. For a brief review of the policy and its legislative history, see CRS Report RL32849, *Child Welfare Financing: An Issue Overview*, by Emilie Stoltzfus, section on "The 'Look Back'" under "Proposals for Change."

[36] CRS calculations based on annualized state AFDC "need standards" for a family of three (as they existed in 1996) and the federal poverty guidelines for a family of three in 1996 and 2007.

eligible claim submitted by a state on behalf of an eligible child. This kind of federal funding is sometimes referred to as "open-ended entitlement" funding. H.R. 5466, H.R. 3409, H.R. 4207 and S. 2900 would continue to provide support for Title IV-E foster care maintenance payments and adoption assistance payments on an open-ended entitlement basis. These bills would also provide for continued open-ended reimbursement for related child placement activities (e.g. case management), training, data collection costs, and other program administration costs. However, H.R. 5466 would limit overall state reimbursement for specific administrative costs—eligibility determination, setting payment rates for foster care homes and institutions, and for related agency overhead—to no more than 15% of a state's federal Title IV-E administrative funding[37] and H.R. 3409 would limit those same costs to no more then 15% of a state's total federal Title IV-E funding. (H.R. 4207 and S. 2900 do not include this limit.)

Reimbursement Rates

H.R. 4207 and S. 2900 would not make any changes to current federal reimbursement rates under Title IV-E. However, H.R. 5466 and H.R. 3409 propose to reduce the expected cost to the federal government of expanding eligibility for Title IV-E by reducing the rate at which states are now reimbursed for foster care and adoption assistance costs. In general, these bills propose to determine what portion of all state's *total* foster care and adoption assistance costs (whether incurred on behalf of a IV-E eligible child or a non-IV-E eligible child) is now provided by the federal government, and would ensure that this same national level of commitment be continued into the future. To achieve this, each state's current reimbursement rates under the Title IV-E program (except those related to training, and development and operation of a data collection system) would be reduced by the same percentage. At the same time, H.R. 5466 and H.R. 3409 would provide a three-year period, following the enactment of these changes, during which any state that received fewer federal foster care or adoption assistance dollars because of lowered federal reimbursement rates, could submit additional claims to receive funding at the level they would have received under prior law.[38] Ultimately, the overall share of federal support received by the state during that three-year period would be used as part of establishing its Title IV-E reimbursement rates.

Current Law. Currently, the reimbursement rate for foster care maintenance payments and adoption assistance payments is pegged to the state's Federal Medical Assistance Percentage (FMAP), which ranges from a low of 50% (for highest per capita income states) to as high as 83% (for lowest per capita income states);[39] the reimbursement rate for program administration costs, including child placement activities is 50%; and the reimbursement rate for training costs is 75%. With the exception of eligibility determination and certain data collection costs (both counted as administrative costs), foster care and adoption assistance costs may only be reimbursed if incurred on behalf of Title IV-E eligible children. States are expected to pay the full costs for children who do not meet the federal eligibility criteria (either out of state or local treasuries or, if allowable, some other federal funding).

[37] H.R. 5466 would exclude from this calculation all administrative expenses related to training or data collection.

[38] This is the presumed intent of the language in these bills.

[39] See CRS Report RL32950, *Medicaid: The Federal Medical Assistance Percentage (FMAP)*, by April Grady. The statute provides that for purposes of the Medicaid program, the District of Columbia's FMAP is fixed at 70%; however, for purposes of Title IV-E, the FMAP is calculated annually and has consistently been 50%. Both H.R. 5466 and H.R. 3409 would fix the District's Title IV-E FMAP at 70%, making it equal to its FMAP for Medicaid.

De-Link Adoption Assistance

In most cases, eligibility for Title IV-E adoption assistance is also based, in part, on whether or not a child was removed from a family that met a state's 1996 AFDC income standards and other eligibility criteria.[40] Roughly 89% of children adopted with child welfare agency involvement in FY2006 receive an adoption subsidy. (The remainder either did not meet state special needs criteria or for some other reason did not receive ongoing adoption assistance.) Among only those children adopted in FY2006 with an adoption subsidy (roughly 45,500), 78% received federal adoption assistance (under Title IV-E), and the remaining 22% received a subsidy that was solely state financed. By comparison, among the children adopted in FY2000 with an adoption subsidy (roughly 44,800), 85% received federal (Title IV-E) adoption assistance, and 15% received a state-only subsidy.[41] Data that would allow an estimate of the total share of children (adopted in any year) who receive federal adoption assistance versus those who receive state-only support are not available.[42]

The Adoption Equality Act of 2007 (S. 1462, introduced by Senator John Rockefeller, and H.R. 4091, introduced by Representative Jim Cooper) and the Improved Adoption Incentives and Relative Guardianship Assistance Act (S. 3038, as introduced by Senator Charles Grassley) would remove the AFDC link for purposes of Title IV-E adoption assistance eligibility only.[43] S. 1462 and H.R. 4091 are largely identical bills, and S. 3038 contains provisions very similar to those bills. All three would potentially expand the adoption assistance caseload to each child who is adopted from foster care, provided that the state has made reasonable efforts to place the child for adoption without assistance (if appropriate) and that the child meets the "special needs" criteria of a given state.[44] Special needs criteria are any factors that a state determines make it unlikely that a child will be adopted without adoption assistance (or medical assistance). These criteria vary by

[40] A child may currently be eligible for Title IV-E adoption assistance without meeting the AFDC-related requirements if he or she is eligible for Supplemental Security Income (SSI) or if he or she is the son or daughter of a Title IV-E eligible youth (a "minor") who is in foster care and whose foster care maintenance payment includes costs incurred on behalf of the child.

[41] For state-by-state data from FY2006 see information on the U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau website http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/statistics/subsidy_tbl5_2006.htm. FY2000 data received from HHS, ACF, Children's Bureau.

[42] States currently report data on *all* children with an adoption assistance agreements in the year an adoption is finalized. Although the *number of* children receiving Title IV-E supported adoption assistance (regardless of the year of the adoption finalization) may be estimated based on state Title IV-E expenditure claims, there are no data reported regarding the total number of children who receive adoption assistance payments, whether federally subsidized or solely state supported, regardless of the year the adoption was finalized. HHS, however, has recently proposed to collect this data. See *Federal Register*, Proposed Rules, "Adoption and Foster Care Analysis Reporting System," January 11, 2008, p. 2083.

[43] S. 1462 and S. 3038 would also make optional the current requirement that for a foster child to be eligible for adoption assistance, a judge (as opposed to, for instance, the state child welfare agency) must have determined that the child's continuation in the home of their parents was contrary to the child's welfare. H.R. 4091 would maintain the requirement that such a determination be made by a judge.

[44] S. 1462, S. 3038, and H.R. 4091 would also remove the need for a child to meet the income eligibility of the Supplemental Security Income (SSI) program to be eligible for Title IV-E Adoption Assistance and would permit the continued eligibility of other specific groups of children who now may qualify for Title IV-E adoption assistance, including those voluntarily relinquished and those who are the children of a Title IV-E-eligible minor in foster care whose maintenance payment included costs incurred on behalf of the child. Each of the bills proposes somewhat different eligibility criteria with regard to citizenship or immigration status. S. 3038 would retain the current requirement (as enacted by P.L. 104-193) that an eligible child must be either a citizen or a "qualified alien." H.R. 4091 would require that the child be "lawfully present in the United States," and S. 1462 would not link any eligibility criteria to citizenship/immigration status of the child.

state but must include a determination by the state that the child cannot or should not be returned to the home of his parents, and they often address some or all of the additional factors suggested in federal law, including ethnic background, membership in a minority or sibling group, medical conditions, or physical, mental, or emotional handicaps.[45]

The number of children receiving Title IV-E adoption assistance in an average month has grown dramatically in the recent past—from 106,200 in FY1995 to more than 390,900 in FY2007. The Administration predicts continued growth and estimates that in an average month in FY2009, 430,400 children will receive this assistance.[46] The growth in the number of children receiving federal adoption assistance is consistent with the Adoption and Safe Families Act of 1997 (ASFA, P.L. 105-89), which among other things encouraged states to expeditiously aid the adoption of children out of foster care (when returning home is not possible for them). Some states had begun to increase these efforts even before this legislative change, and between FY1995 and FY2000, the number of children adopted with public child welfare agency involvement nearly doubled (from 25,700 to 51,100). Since FY2000, adoptions with public child welfare agency involvement have remained roughly constant at between 50,000 and 53,000 children annually.[47]

Support for Subsidized Guardianship

Children in foster care frequently live with relatives: on the last day of FY2006, about one in four of all children in foster care (more than 124,000) were living in the home of a relative. In addition, many children leave foster care to live with relatives. In FY2006, some 13,300 children left foster care to be adopted by a relative; a somewhat greater number (15,000) left foster care for legal guardianship (most of these placements are presumed to be with relatives), and many more left care to live with a relative in some other (less formal) arrangement (30,800).[48] The Kinship Caregiver Support Act (S. 661, introduced by Senator Hillary Clinton, and H.R. 2188, introduced by Representative Danny Davis), as well as H.R. 5466, an omnibus child welfare policy bill, S. 3038, a multi-purpose child welfare bill, and H.R. 3409, an omnibus youth policy bill, would permit states to seek open-ended federal reimbursement under Title IV-E for a part of the cost of providing guardianship subsidies to relatives who assume legal guardianship of children who were previously in foster care and were Title IV-E eligible.[49]

Federal child welfare policy views guardianship as a positive permanent placement for children who cannot be reunited with their parents and for whom adoption is not possible or appropriate.[50] Some research has found that on a range of factors related to safety (recurrence of maltreatment),

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[45] Section 473(c) of the Social Security Act.

[46] U.S. Congress, House Ways and Means Committee, *Green Book 2004,* Table 11-3; U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Title IV-E State Claims for Adoption Assistance Expenditures—FY2006, (May 2007); and *Budget of the United States Government, FY2009 - Appendix*, p. 462.

[47] U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), "Adoptions of Children with Public Child Welfare Agency Involvement By State, FY1995-FY-2005" (revised March 2007); available at http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/adoptchild05.pdf.

[48] U.S. Department of Health and Human Services, *The AFCARS Report (14),* Preliminary FY2005 Estimates as of January 2008, available at http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report14.htm.

[49] S. 661 and H.R. 2188 would also authorize "such sums as may be necessary" for guardianship payment programs established as demonstrations in large metropolitan areas of any state that opted not to participate in the Title IV-E guardianship payment program.

[50] Legal guardianship is defined in federal statute (Section 475(7) of the Social Security Act and is also mentioned in connection with reasonable efforts to place a child in a permanent home, making a written case plan regarding a child's permanent placement, and reviewing a child's permanent plan. See Section 471(a)(15)(F), Section 475(1)(E), and Section 475(5)(C), all in the Social Security Act.

permanence (re-entry to foster care) and well-being (school performance, engagement in risky behaviors, and access to community resources), children placed in a subsidized guardianship fare at least as well as children who left foster care to be reunited with birth families or were adopted. Further, this research found that children placed in subsidized guardianships cited as positive both an increased sense of stability and loss of the "stigma" of foster care, while their caregivers pointed to their enhanced ability to make decisions for the child around health care, family visits, and education as a principal advantage of guardianship over foster care.[51] In 2007, the GAO recommended that "Congress consider amending federal law to allow federal reimbursement for legal guardianship similar to that currently provided for adoption" as a way to reduce the disproportionate representation of African-American children in foster care.[52]

Many relative caregivers have limited income. Advocates of federally supported subsidized guardianship argue that financial support is critical for relatives to assume care and that many relatives cannot afford to assume care of children outside of the foster care system. According to a nationally representative survey, close to two out of every three children (estimated 66%) who were placed in a kinship care arrangement—after an investigation of alleged abuse or neglect in their own home—were placed in households with income below 200% of the federal poverty threshold, including some 40% who went to live in households with incomes below 100% of the federal poverty level.[53]

Relative caregivers are currently eligible for varying levels of financial support depending on their legal relationship to the child and the licensing or other policies of the state in which they live. Relatives may receive foster care maintenance payments if they serve as formal foster parents for a relative child. However, those payments *may not* be Title IV-E (federally) subsidized *unless* the relative meets the state's licensing standards and approval process. Similarly, children who exit foster care to relative adoption may be eligible for a Title IV-E adoption assistance payment (but only if that relative meets specific background check requirements). Some (unlicensed) relatives caring for children in formal foster care may instead receive a Temporary Assistance for Needy Families (TANF) "child-only" benefit, and this may also be true for children who exit foster care to either an informal relative-care arrangement or to a more formal relative guardianship.[54] TANF child-only benefit levels vary by state but are typically worth significantly less than a foster care maintenance payment. (A 2004 study of child-only benefits in five states found that, depending on the number of children a relative cares for, a TANF child-only benefit may represent as little as 22% of the foster care maintenance rate or as much as 82%.)[55]

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[51] U.S. Department of Health and Human Services (HHS), Synthesis of Findings from the State Assisted Guardianship Title IV-E Waiver Demonstration Projects (James Bell Associates: September 2005, available at http://www.acf.dhhs.gov/programs/cb/programs_fund/cwwaiver/agissue/index.htm.

[52] U.S. Government *Accountability Office (GAO), African American Children in Foster Care, GAO-07-816*, July 2007, available at http://www.gao.gov/new.items/d07816.pdf.

[53] U.S. Department of Health and Human Services (HHS), *National Survey of Child and Adolescent Well-Being (NSCAW),* CPS Sample Component, Wave 1, Data Analysis Report (April 2005), pp. 6-13 to 6-16.

[54] On an average monthly basis in FY2005, as many as 500,000 children who lived with a non-parent relative received a TANF "child-only" benefit. (See CRS Report RL34206, *Temporary Assistance for Needy Families (TANF): Issues for the 110th Congress*, by Gene Falk.) These children may be living with a relative via private family arrangement, may be in formal foster care, may be in a legal guardianship or may be in some other less formal arrangement made by the child welfare agency or the court.

[55] U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation (report prepared by researchers at RTI International and University of North Carolina at Chapel Hill) *Children in Temporary Assistance for Needy Families (TANF) Child-Only Cases with Relative Caregivers* (June 2004), pp. 4-10.

Some children who exit foster care to a legal guardian may receive support through a state-established subsidized guardianship program. There is no dedicated federal source of funding for state subsidized guardianship programs, but more than 30 states (including DC) are believed to have such programs in place. These programs vary in design and scope, but all provide monthly financial payments to adults who assume legal guardianship of a child. Some, but not all, states require these adults to be relatives, and most require that the child was previously in foster care (under the responsibility of the state). Typically states rely entirely, or in some part, on state and local funding to operate subsidized guardianship programs. However, nine states (IL, IA, MN, MT, NC, OR, TN, VA, and WI) have child welfare demonstration projects (waivers) specifically allowing federal Title IV-E funds to provide guardianship payments, although these programs, generally, may not operate on a statewide basis. As many as 11 states use TANF funds to support subsidized guardianship programs (including AZ, CA, CO, FL, GA, IN, KY, LA, NV, NJ, and ND).[56]

Proposed State Requirements for Reimbursement of Guardianship

S. 661, H.R. 2188, H.R. 5466, S. 3038 and H.R. 3409 would each provide that to claim federal reimbursement of guardianship payments under Title IV-E, the state child welfare agency would need to enter into a guardianship assistance agreement with the legal relative guardian, provide a copy of the agreement to the relative guardian, and certify that any child moving to a Title IV-E guardianship assistance arrangement is eligible for Medicaid.

The guardianship assistance agreement would need to specify the services to be made available to the family and the amount of the guardianship assistance payment. S. 661, H.R. 2188, and H.R. 3409 would provide that this amount must take into account the needs of a relative guardian and of the child and that it may not be less than what the child would otherwise receive as a foster care maintenance payment. H.R. 5466 would make these same stipulations except that it would also give states the option to set the payment amount at the adoption assistance rate the child would have received had he or she been adopted. S. 3038 would require states to take into account the circumstances of the relative guardian and the needs of the child and would permit states to establish a guardianship assistance payment amount that was no less than the adoption assistance rate the child would have been eligible for if adopted nor greater than the foster care maintenance payment the child would be eligible for in a foster family home. All five bills would further provide that the state must pay nonrecurring expenses associated with obtaining a legal guardianship, although S. 3038 would cap the amount of reimbursement of those costs at no more than $2,000. Finally, each of the five bills would require that, for any child in foster care whose permanency plan was legal guardianship, the state must have documented that relative guardianship is the most appropriate permanent placement option for the child. And among other items, this documentation would need to include the reasons the relative had for not pursuing adoption and the efforts made by the state agency to obtain consent of the child's parent (or parents) to the relative guardianship arrangement.

[56] Generations United, *Grandfamilies: Subsidized Guardianship Programs*, June 2006 and U.S. Department of Health and Human Services (HHS), "Summary of Title IV-E Child Welfare Waiver Demonstrations," James Bell Associates, May 2007. http://www.acf.dhhs.gov/programs/cb/programs_fund/cwwaiver/2007/summary_demo2007.htm. Certain additional states (or parts of states) have broad Title IV-E waivers that might allow them to spend Title IV-E funds for subsidized guardianship.

Eligibility of Guardian

S. 661, H.R. 2188, H.R. 5466, and H.R. 3409 would each provide that, for an adult guardian to receive guardianship assistance payments on behalf of a former foster child, he or she must be a grandparent or other relative of the child; must have been the foster parent of that child; must show a "strong attachment" to the child, including a commitment to care for the child on a permanent basis; and must become the legal guardian of the child through a legal guardianship established by a court.[57] S. 3038 would make these same requirements except that the grandparent or other relative is not explicitly required to have been the foster parent of the child. All five bills would also require that relative guardians complete a fingerprint-based criminal background check, and four of them (S. 661, S. 3038, H.R. 2188 and H.R. 3409) would specify that relatives with certain criminal histories may not be approved as legal relative guardians for a child who receives a Title IV-E guardianship assistance payment. (These provisions regarding denial of approval for prospective caretakers with certain criminal history records now apply with regard to prospective foster and adoptive parents.)[58] By contrast, although H.R. 5466 requires fingerprint-based criminal record checks, it does not reference a list of findings that would disqualify a legal relative guardian from receiving a federally supported (Title IV-E) kinship guardianship assistance payment on behalf of a child. Finally, S. 3038 would further require that a relative guardian's home meet the licensing standards developed by the state for foster family homes.

Eligibility of Child

S. 661, H.R. 2188, H.R. 5466, and H.R. 3409 would each further provide that to be eligible for a Title IV-E guardianship assistance payment, the child must have been in foster care for at least 12 months and must have been eligible for Title IV-E payments; S. 3038 would require that the child was in foster care and eligible to receive a federal (Title IV-E) foster care maintenance payment in the month prior to the establishment of the guardianship. All five bills require that the child demonstrate a strong attachment to the relative guardian, and, further both reuniting with a parent(s) and adoption must be considered inappropriate permanent placement options for the child. In addition, all five bills state that a child who is 14 years of age or older must be consulted regarding the kinship guardianship arrangement. And further, a child who does not meet all of these criteria but is a minor sibling of a child that does may (or in the case of S. 3038 "must") be placed in the same guardianship assistance arrangement with his or her eligible sibling, and both (or all) siblings in the arrangement may receive federal (Title IV-E) guardianship assistance payments.

S. 661, S. 3038, and H.R. 2188 would provide that the child must meet the current requirements for Title IV-E foster care eligibility (including the income rules tied to the prior law AFDC program). Both H.R. 5466 and H.R. 3409 would similarly require a child to have met Title IV-E eligibility requirements in order to be eligible for a Title IV-E guardianship assistance payment. However, as discussed above, both of those bills would de-link Title IV-E foster care eligibility from the prior law AFDC program, so those current law income eligibility rules would not apply. S. 661 and H.R. 2188 also would provide that to be eligible for Title IV-E guardianship assistance, a child must be under the age of 18 (unless he or she is not yet 19 and is a full-time student in a secondary school or equivalent level vocational or training program) *or* under the age

[57] The bills each reference "legal guardianship," which is defined at Section 475(7) of the Social Security Act as a "judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking."

[58] For more information on the Title IV-E criminal background check requirements see CRS Report RL34252, *Child Welfare: Federal Policy Changes Enacted in the 109th Congress*, by Emilie Stoltzfus.

of 21 (if the state determines the child has a mental or physical illness that warrants continued support). By contrast, H.R. 5466 would permit a state to choose to provide a federally supported (Title IV-E) guardianship assistance payment for any youth who remains in the care of a legal guardian up until his or her 21st birthday, while S. 3038 would not permit payment of a federal (Title IV-E) guardianship assistance payment on behalf of any youth who had attained 18 years of age.

Training for Relative Guardians

Under current law (Title IV-E of the Social Security Act), states are permitted to seek reimbursement for 75% of their cost of training current or prospective foster or adoptive parents (of Title IV-E eligible children). S. 661, H.R. 2188, S. 3038, and H.R. 5466 would provide that states could also make claims for reimbursement of 75% of the costs related to the short-term training for current or prospective relative guardians of Title IV-E eligible children.

Extending the Age Limit for Federal Foster Care Assistance

The Foster Care Continuing Opportunities Act of 2007 (S. 1512 introduced by Senator Barbara Boxer), the Reconnecting Youth to Prevent Homelessness Act of 2007 (H.R. 4208, introduced by Representative Shelley Berkley and S. 2560, introduced by Senator John Kerry), the omnibus child welfare policy bill (H.R. 5466), and the omnibus youth policy bill (H.R. 3409), would each permit youth who remain in foster care until their 21st birthday to remain eligible for federal foster care support.

Under current federal policy, children cannot be Title IV-E eligible once they reach their 18th birthday or (in most states) their 19th birthday if they are finishing high school or an equivalent level of training.[59] Additionally, to be eligible for Title IV-E foster care, a child must be under the care and placement responsibility of the state (or any public agency with which the state agency has made an agreement). However, in most states a child reaches the "age of majority" on their 18th birthday and is considered to be legally "emancipated" from either his/her parents or, in the case of a child in foster care, the state foster care system. Most youth leave foster care upon reaching their 18th birthday, and this is true even though many states now permit youth to choose to remain in care beyond that date.[60] However, with a handful of exceptions, few states appear to actively facilitate a youth's extended stay in foster care—possibly because states must pay most of these foster care costs.

S. 1512 and H.R. 5466 would *permit* a state to continue to make foster care maintenance payment claims for an otherwise Title IV-E eligible youth who remains in foster care (under the responsibility of the state) until the youth's 21st birthday (or at state option up until their 19th or 20th birthday). S. 1512 would explicitly state that remaining in foster care would be a choice made by the youth. H.R. 3409, H.R. 4208, and S. 2560 would *require* states to make foster care maintenance payments on behalf of any otherwise eligible youth who chooses to be in foster care after their 18th birthday (but not beyond their 21st birthday). Further, under each of H.R. 3409, H.R. 4208, and S. 2560, as part of choosing to remain in foster care, a youth would be required to

[59] See U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) *Child Welfare Policy Manual,* Section 8.3A.2, available at http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=15. This policy manual incorporates formal guidance and rules from HHS/ACF related to federal child welfare policy.

[60] Regarding states that permit youth to remain in care beyond age 18, see June Kim and Kevin Sobczyk, *Continuing Court Jurisdiction in Support of 18 to 21 Year-Old Foster Youth,* American Bar Association, Center on Children and the Law, July 2004.

enter into a written "voluntary placement agreement" that would be binding on both the youth and the state agency and that would specify the youth's legal status as well as the rights and obligations of both the state agency and the youth while he or she remains in foster care.

Each of H.R. 3409, H.R. 4208, H.R. 5466, and S. 2560 would expand eligible placement settings for older youth in care. Current federal policy provides that a state may only claim federal reimbursement for foster care maintenance payments made on behalf of a child who is placed in a licensed foster family home or "child-care institution," and further, that these payments may not be made directly to an older youth who is in a supervised independent living situation or to help an older foster youth pay rent.[61] Many older foster youth—even those who remain in state care—do not live with a foster family (or in a child care institution) but instead live in supervised independent living quarters or with relatives.[62] H.R. 3409, H.R. 4208, and S. 2560 would each amend the law to explicitly include a licensed supportive housing facility as a federally eligible placement setting for older youth in foster care and would also permit foster care maintenance payments to be used to cover the rent for a youth's apartment. Alternatively, H.R. 5466 would amend the definition of "child-care institution" to include a "supervised setting in which the individual is living independently," but only for otherwise Title IV-E eligible youth who are at least 18 years of age, and in accordance with any conditions related to the supervised setting established by HHS in regulations.

Funding for Services to Children and Families

A common criticism of federal child welfare financing is that most federal support is for children *after* they have been removed from their homes (i.e., funds provided for foster care or adoption assistance) and that relatively little federal funding is provided to encourage states to provide services that would prevent placement of a child in foster care or to help children who are placed in foster care be successfully reunited with their parents. In recent years, the share of dedicated child welfare funding that is available for all states to provide child welfare services and activities on behalf of any child (or their family) needing them has been about 10% of all dedicated child welfare funding.[63]

Title IV-E Child and Family Services Component

H.R. 5466 would authorize open-ended reimbursement of a new child and family services component under Title IV-E of the Social Security Act. This would enable states to seek federal reimbursement for services that seek to (1) safely reduce the number of children in foster care; (2) safely reduce the length of stay for children in foster care; (3) increase the percentage of foster children who are cared for in family-like settings; and (4) improve the well-being of children in foster care or those who are receiving a Title IV-E supported adoption assistance or guardianship assistance payment. The federal reimbursement rate for these services would be pegged to a

[61] Section 472(b) and HHS, ACF, *Child Welfare Policy Manual* regarding allowable use of Title IV-E foster care maintenance payments. Section 8.3B, Question 2, available at http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=41#423.

[62] A study published in 2005 by Chapin Hall tracked older foster youth in Illinois (where youth are permitted to remain in care until their 21st birthday) and found that at age 19, half (50%) of the surveyed youth lived in supervised independent living settings, about 20% lived in foster family homes, and 19% lived with relatives. The remainder lived in group quarters (7%) or other settings (4%). See Mark E. Courtney et al., *Midwest Evaluation of Adult Functioning of Former Foster Youth: Outcomes at Age 19*, Chapin Hall Center for Children and Families: University of Chicago, May 2005, p. 13.

[63] See CRS Report RL34121, *Child Welfare: Recent and Proposed Federal Funding*, by Emilie Stoltzfus.

state's Federal Medical Assistance Percentage (FMAP), which may range from 50% in the highest per capita income states to 83% in states with the lowest per capita income.

A state seeking funding under the Title IV-E child and family services component would need to submit a plan to HHS describing what services it intends to support with this funding, the process by which it intends to assess the effects of the spending on the state's established goals and on other indicators of child welfare performance, and whether it intends to spend some or all of the funds on a required Program Improvement Plan (PIP). The plan would also need to contain an assurance that the state would submit detailed annual spending reports to HHS (in accordance with a uniform reporting system to be developed by HHS). HHS would be required to approve a state's plan for the child and family services component provided it meets these specified requirements, *except* that it *may not approve* the plan from a state if a review (e.g., the Child and Family Services Review) has found that the state is not in substantial conformity with child welfare policy *and* the state is not implementing a PIP to correct the failure. Further, HHS would also be permitted to disapprove a state's Title IV-E child and family services component plan if the state was not making meaningful progress toward ending its failure to conform with federal child welfare policy. Finally, HHS would be allowed to disapprove a state's Title IV-E child and family service component plan if the state intended to spend the funds on a service method substantially the same as one that was used in the last two of the most recent five years and if the prior spending on that service method failed to result in meaningful progress toward the goals the state described in its plan. Finally, states would be required to use the funds received under this new service component of Title IV-E to supplement, rather than supplant, any federal, state, or local funds currently used for such child and family services.

Maintenance of Effort Provisions and Service Spending

H.R. 3409 would require each state to spend at least the same amount of money previously spent to provide foster care maintenance payments for children who were not Title IV-E eligible (because of the AFDC link) on either foster care maintenance payments or any of the four services categories for which states must now spend Promoting Safe and Stable Families funding (i.e. family support, family preservation, time-limited reunification, and adoption promotion and support).[64] S. 1462, which as described above would remove the AFDC link for purposes of federal eligibility for Adoption Assistance only, would provide that a state must spend any savings it derives from the increased share of children that would be eligible for adoption assistance on any purpose now authorized under Title IV-E or Title IV-B of the Social Security Act (including post-adoption services). This requirement is also included in S. 3038. By contrast, H.R. 4091, which would also expand eligibility for federal adoption assistance support by removing the AFDC link, would not make this requirement of states but would include a "Sense of Congress" statement to this effect.

By removing the AFDC eligibility link and thus increasing the number of children eligible for Title IV-E foster care maintenance payments, H.R. 5466, H.R. 3409, and H.R. 4207/S. 2900 would also increase the share of children in foster care for whom states could seek federal support for certain caseworker activities (such as monthly visits and permanency planning for children in foster care). Although these activities are not considered "services" under the Title IV-E program, they are critical efforts that federal law requires states to make on behalf of any child in foster care. Currently, states may seek reimbursement for these activities only on behalf of Title IV-E

[64] Specifically, a state's maintenance of effort level—that is, the amount of its own money it would need to continue spending regardless of the expanded federal funds—would be based on past average annual total state spending (FY2001-FY2006) on foster care maintenance payments for children who were ineligible for Title IV-E because of the program eligibility rules related to the prior law AFDC program.

eligible children in foster care; states must use their own dollars (or find other federal funds, such as Title IV-B or Social Services Block Grant funds) to pay for these caseworker activities made on behalf of children who are not eligible for Title IV-E support. Thus, the expanded eligibility for Title IV-E foster care maintenance payments (described above) would make federal support available for caseworker activities on behalf of all (or nearly all) children in foster care. This might free up other federal funds provided to a state for services to children and their families. Further, provided that states did not use this increased support to simply supplant their current spending for these purposes, it might also increase available state support for those purposes. (On the other hand, both H.R. 5466 and H.R. 3409, but not H.R. 4207/S. 2900, would reduce the reimbursement rate for those costs to limit the effect of the expanded eligibility.) None of the proposed bills would address maintenance of effort with regard to current funding for caseworker activities on behalf of children not eligible for Title IV-E.

Transfer of "Unused" Title IV-E Funds for Services and Training

H.R. 4207/S. 2900, which as described earlier would remove the AFDC link for purposes of both federal Foster Care and Adoption Assistance eligibility, would separately permit a state that reduces the number of days children in the state spend in foster care to transfer any federal savings from this reduction to be used for child-welfare related training or for any of the categories of services now authorized by the Promoting Safe and Stable Families program. (As noted earlier, those services are family support, family preservation, time-limited reunification, and adoption promotion and support.) Under H.R. 4207/S. 2900, a state wishing to transfer funds would have to negotiate with HHS the total number of days it expected children in its state to spend in foster care (i.e., its number of "placement days"). The maximum amount of savings that could be generated would be the product of any fewer number of placement days and the state's per child (federal Title IV-E) cost of keeping a child in foster care. A state applying to HHS for the ability to transfer funds would also need to submit a plan detailing how it would use any funds generated and assuring that relevant current law child protections would be maintained.

Additional Funding Authorization Sought

H.R. 3409 would increase by $200 million the annual mandatory funding authorization for the Promoting Safe and Stable Families (PSSF) program. This would raise the total annual funding authorization for that program from $545 million to $745 million (of which $200 million would continue to be authorized on a discretionary basis). In FY2008, the PSSF received funding of $408 million (of which $345 million was mandatory and $63 million was discretionary).

Funding under Title I and Title II of CAPTA is appropriated on a discretionary basis and the authorization of appropriations is set to expire with FY2008. For FY2008, CAPTA state grants (under Title I) received an appropriation of less than $27 million and the act's Title II community-based grant program received funding of less than $42 million. The Crime Control and Prevention Act of 2007 (S. 2237, introduced by Senator Biden), seeks an additional funding authorization of $200 million in each of FY2008-FY2012 for CAPTA state grants under Title I and a separate additional $200 million authorization for each of those same years for the Title II community-based grants.[65] Beyond this, the bill would authorize $545 million in additional funds to be distributed to community-based groups in all states (via Title II of CAPTA) for the purpose of "parent education and counseling services and family-strengthening services, and referral to and counseling for adoption services." (See also discussion under "Parenting Education," below.)

[65] H.R. 3409 would also extend the current CAPTA funding authorization levels without significant changes.

Improving Services for Older Current or Former Foster Youth

A number of proposals seek to bolster support for older youth in foster care and particularly those who "age-out" of foster care. As discussed earlier, some proposals would expand federal eligibility for foster care aid until a youth reaches their 21st birthday (see "Extending the Age Limit for Federal Foster Care Assistance," above). In addition, these and other proposals seek to ensure greater attention to the needs of older youth in foster care and to expand and improve access to education, medical, and social services for older youths in foster care as well as those who age out.[66]

Foster Child Protections

H.R. 4208, S. 2560, and H.R. 3409 would amend current law related to case planning and review of permanency plans to require earlier and added actions on behalf of older youth in foster care. Federal statute now requires states to apply specific case planning procedures for each child in foster care, including preparation of a written case plan and regular review of this plan, including the child's permanency goal. Most of these protections apply without regard to age; however, federal law now requires that the written case plan of any youth who is in foster care on his her 16th birthday, "when appropriate," describe the programs and services that will help the child prepare for the transition from foster care to independent living.[67] Further, when holding a permanency hearing, a court (or other administrative body) is required to consult (in an age-appropriate way) with the child or youth concerning the content of the permanency plan, including any transition plan.[68]

Written Case Plan

H.R. 4208, S. 2560, and H.R. 3409 would amend the case plan requirement now in law to provide that, for any youth in care at *age 14* (and, at state option, any other child), the case plan must include a written description of programs and services that will facilitate the transition of the child from foster care to independent living, and further, that it discuss the appropriateness of the services that have been provided. These bills would also require the case plan for any youth age 14 or older (or, at state option, any other child) to document the steps the agency had taken to ensure a permanent placement of the child with a family or to establish another adult connection and a permanent living arrangement for the child. Finally, for any child age 17 or older (or with a permanency goal of emancipation), each of these bills would require that the state agency document the youth's permanent living arrangement upon emancipation.[69]

Permanency Planning Review

H.R. 4208, S. 2560, and H.R. 3409 would require that at any permanency hearing that concerns a foster child/youth's transition to independence, all documented efforts to secure a permanent living arrangement for the child upon emancipation would be reviewed. It would also require that the final permanency hearing held with regard to the transition of a child from foster care to a

[66] See also CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs* , by Adrienne L. Fernandes.

[67] Section 475(1)(D) of the Social Security Act.

[68] Section 475(5)(C)(iii) of the Social Security Act.

[69] This appears to be the probable intent of certain provisions found in Section 103 of H.R. 4208, Section 103 of S. 2560, and Section 121 of H.R. 3409.

planned permanent living arrangement or independent living be held in a court.[70] (Under current law this permanency hearing may be conducted by a court or a court-appointed administrative body.)

Social Services

Several bills seek increased mandatory funds for the Chafee Foster Care Independence Program (CFCIP) or other changes intended to improve access to certain social services under that program. The CFCIP is the primary federal child welfare program supporting services to older youth in foster care (and those who have aged out of foster care). Under its authority, federal funds are distributed to each state to support independent living services and other aids for youth who leave foster care custody at age 18 (because of reaching the state age of majority) or those who are expected to do so. These services are generally related to completing education or training programs, finding and retaining a job, managing personal finances and other daily living skills, and practicing good health. States may also use CFCIP funds to "provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults." Finally, states are required to provide assurances they will use some CFCIP funds to provide services for youth who have left foster care at age 18 (but who are not yet 21 years old) for activities related to educational achievement and employment as well as for counseling, financial support, and housing assistance. However, the law prohibits states from using more than 30% of the CFCIP allotment for room and board purposes.

Funding Authorization and Youth Served

H.R. 3409, H.R. 4208, and S. 2560 would amend the CFCIP program to increase the annual mandatory funding authorization to $200 million (from the current $140 million). Those bills, along with H.R. 2188, would also amend the purposes of the CFCIP program to provide that states are to identify youth expected to remain in care until age 14 (current law provides no lower age limit but instructs states to identify youth likely to remain in care until *18 years of age*) and to provide services to help them transition to independent living.[71] H.R. 3409, H.R. 4208, and S. 2560 would further provide that states could continue providing CFCIP services to youth once they had aged out of foster care until age 25 (current law says age 21) and would also require states to certify that they used some of their CFCIP funds to serve youth who had left foster care at age 18 but had not reached the age of 25 (but no more than 30% for room and board services to youth in this age category). Additionally, H.R. 3409, H.R. 4208, and S. 2560 would add an additional purpose to the program that would permit states to use CFCIP funds to provide independent living services for any youth who left foster care (via adoption or guardianship) after reaching their 14th birthday. By contrast, S. 3038 would amend the purposes of the CFCIP to make eligible for the CFCIP services any youth who left foster care for adoption or placement with a relative guardian after reaching their 16th birthday.

Access to Program Information and Services

H.R. 3409 , H.R. 4208, and S. 2560 would amend the CFCIP program to require states to certify that when, or before, a youth leaves foster care, the state will inform him or her of the full range of available financial, housing, counseling, health, public benefit, employment and education

[70] Ibid.

[71] Section 477(a)(1) of the Social Security Act. Although there is no lower age limit for receipt of CFCIP services in current law, the proposed language appears intended to encourage states to identify youth at an earlier age than may be current practice.

services, and other appropriate supports and services for which the youth is eligible. Further, these bills would also require HHS to provide for "efficient distribution to States and local areas" of information about the full range of federal programs that may assist youth making the transition to self-sufficiency and provide guidance on how to access services under those programs.

Other CFCIP Changes

H.R. 3409, H.R. 4208, and S. 2560 would modify certain requirements related to program evaluation and would require states to describe in their CFCIP plan how they intend to both distribute program funds "among a diverse range of qualified" private providers and ensure that these entities have equal opportunity to receive the CFCIP funds (to provide independent living services and related supports).

Education Attainment

Under current law, youth eligible for Education and Training Vouchers (ETVs) include any who are eligible for general independent living services under the CFCIP as well as any youth adopted from foster care after their 16th birthday. ETVs may be used by these youth to pursue post-secondary education or training.[72] An individual voucher may be valued at up to $5,000 and may be used for the cost of attending an "institution of higher education," including universities, community colleges, and post-secondary technical training or vocational schools.[73] H.R. 2188, H.R. 3409, H.R. 4208, and S. 2560 would expand eligibility for the ETV program to permit any youth who left foster care to either guardianship or adoption after reaching their *14th* birthday to receive an ETV.[74] S. 661 and S. 3038 would permit any youth exiting foster care via legal guardianship after reaching their *16th* birthday to be eligible for an ETV.

The Higher Education Amendments Act of 2007 (S. 1642, introduced by Senator Edward Kennedy), passed by the Senate in July 2007, and the College Opportunity and Affordability Act of 2007 (H.R. 4137, introduced by Representative George Miller), passed by the House in February 2008, would amend the Higher Education Act (HEA) to authorize services specifically for youth in foster care or recently emancipated youth, among other related changes. H.R. 4137 would amend the HEA to stipulate that the Education Department must require applicants seeking funds to operate what are collectively called the federal Trio programs to "identify services to foster care youth (including youth in foster care and youth who have left foster care after reaching age 16) as a permissible service" and to "ensure that such youth receive supportive services, including mentoring, tutoring, and other services provided by those programs." The federal Trio programs are designed to identify potential post-secondary students from disadvantaged backgrounds, prepare these individuals for post-secondary education, provide certain support services to them while they are in post-secondary education, and train individuals who provide these services. The programs are known individually as Talent Search, Upward Bound, Student Support Services, and Educational Opportunity Centers.

H.R. 4137 and S. 1642 would further authorize that services provided under Talent Search, Upward Bound, and Educational Opportunity Centers could specifically target current and former

[72] Section 477(I) of the Social Security Act.

[73] For the purposes of the ETV program, the terms "cost of attendance" and "institution of higher education" are as defined in Section 472 and Section 102, respectively of the Higher Education Act.

[74] This is the assumed intent of the four bills although each also proposes separate language that would permit access to ETVs for *any youth* who left foster care (for any reason) after reaching their 14th birthday in care.

foster youth, as well as other youth defined as "disconnected" under the act.[75] S. 1642 would also authorize services under Student Support Services specifically for current and recently emancipated foster youth, including temporary housing during breaks in the academic year for these youth. In addition, S. 1642 would amend the Student Support Services program by changing one of its purposes—concerning fostering an institutional climate to support certain students—to include youth in foster care or recently emancipated youth.

H.R. 4137 would make amendments to another program authorized by the HEA, Gaining Early Awareness and Readiness for Undergraduate Programs (GEARUP). Like the Trio programs, GEARUP seeks to increase disadvantaged students' high school completion and enrollment in higher education by providing a variety of academic, counseling, and college preparatory services. The bill would require grantees seeking funding under GEARUP for early intervention activities (e.g., comprehensive mentoring, counseling, outreach, and support services to participating students) to treat as a priority any student in preschool through grade 12 (and first-year students at an institution of higher education), who is in foster care or was in care until age 16.

H.R. 4137 would further authorize funding through the Fund for the Improvement of Postsecondary Education to be used to establish demonstration projects that provide comprehensive support services for students who were in foster care until the age of 18, to enroll and succeed in postsecondary education, including providing housing to the youth when housing at an educational institution is closed or unavailable to other students. Finally, S. 1642 would amend the Higher Education Act to require that educational technology used in training programs for staff and leadership personnel that operate Trio, GEARUP, and related programs, include strategies for recruiting and serving students who are in foster care or aging out.

The College Cost Reduction and Access Act of 2007 (P.L. 110-84) amended and expanded the definition of "independent student," which is used as part of determining eligibility for federal student aid under the Higher Education Act, to include in that definition an "emancipated minor;" someone who is "in legal guardianship as determined by a court of competent jurisdiction;" or any child who "*is* an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older."[76] The House has passed technical amendments to this law (H.R. 4153, introduced by Representative George Miller), which would restate this last provision to clearly indicate that it includes any individual who *is or was* an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older. In other words, any youth who spent at least some time in foster care at age 13 or older—and without regard to the subsequent reason for exit from this care—would be eligible for "independent student" status for purposes of pursuing federal student aid.[77] (See also "Educational Stability," below.)

[75] H.R. 4137 specifies that certain students are considered "disconnected" for purposes of the act: homeless children and youth; orphans, in foster care, or wards of the court, or who were in foster care or were wards of the court until the students reached the age of 16; adjudicated or convicted juveniles, and related juvenile offenders; and pregnant and parenting youth.

[76] Section 604 of P.L. 110-84 enacted September 27, 2007.

[77] H.R. 3409, which was introduced before P.L. 110-84 was enacted and before H.R. 4153 was passed by the House, also proposes to amend the definition of "independent student" under the Higher Education Act. However, it would provide that to be eligible a youth must be in foster care or have been in foster care on their 18th birthday.

Medical Assistance

The Medicaid Foster Care Coverage Act (H.R. 1376, introduced by Representative Cardoza) would require states to provide Medicaid coverage to youths who have not yet reached their 21st birthday and who were in foster care on their 18th birthday. H.R. 3409 would make this same change; however, it would provide that this mandatory Medicaid coverage could continue until the youth reached the age of 25. At the same time, both H.R. 1376 and H.R. 3409 would permit states to limit this *mandatory coverage* to those youths who were in foster care on their 18th birthday who meet certain income or asset criteria, were previously Title IV-E eligible, or received CFCIP services.[78]

Under current law, states are given the option to provide federally subsidized health insurance (Medicaid) to youth who age out of foster care. As many as 18 states have done so, and, in addition, some states use other eligibility pathways to provide coverage to these youth.[79] However, research continues to suggest many youth are not covered. For instance, a recent study that looked at 19-year-olds who were, or had been, in foster care in Illinois, Iowa, and Wisconsin found that less than half of the youth (47%) who had left foster care had health coverage. By contrast, nearly all (98%) of those who remained in foster care at age 19 had health insurance coverage.[80]

Other Supports or Assistance Proposed

Several proposals would seek to increase the personal funds youth have available to them when making the transition to adulthood or to ensure that certain immigrant youth have legal resident status.

Individual Development Accounts

The Focusing Investments and Resources for a Safe Transition Act (S. 2341, introduced by Senator Clinton), would permit HHS to make competitive grants to states (or state partners) to establish individual development accounts (IDAs) for any youth aging out of foster care. Funds saved in this account could be used by a youth for housing, education, vocational training, to operate a business or to purchase a car and, at the option of the state, for purchase of work-related items or car insurance. (However, before a youth could expend these funds to either operate a business or purchase a car, he or she would first need to spend money on housing, education, or vocational training.) S. 2341 would establish this grant program as an amendment to CAPTA and would authorize additional funding under that act of "such sums as may be necessary" for each of FY2008-FY2012 solely for grants to establish these IDAs.

[78] Under current law, any child who is eligible for a Title IV-E foster care maintenance payment is deemed eligible for Medicaid assistance. Because S. 1512 , H.R. 4208, H.R. 5466, and S. 2560 would permit expansion of Title IV-E foster care maintenance payments (to age 21), these bills would also provide expanded mandatory Medicaid coverage *provided the youth otherwise met all Title IV-E eligibility criteria.*

[79] For more information see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs* , by Adrienne L. Fernandes.

[80] Mark Courtney, et al., *Midwest Evaluation of Adult Functioning of Former Foster Youth: Outcomes at Age 19,* Chapin Hall Center for Children and Families: University of Chicago, May 2005, p. 44.

Social Security/SSI Benefit Accounts

The Foster Children Self-Support Act (H.R. 1104, introduced by Representative Stark) would prohibit states from using certain Social Security benefits (including survivors benefits authorized under Title II and Supplemental Security Income (SSI) benefits authorized under Title XVI) to reimburse a state for the cost of a child's foster care maintenance payment. The bill would also require the state child welfare agency to ensure that children in foster care were screened for potential eligibility for these benefits and to assist such children in applying for the benefits. Further, for any foster child receiving an SSI or other Social Security Act benefit (under Title II), H.R. 1104 would require states to develop a plan specific to the needs of that child and which would conserve benefits not necessary for the immediate needs of the child to enable the child to achieve self-support after leaving foster care. Any savings accumulated under the plan would not be counted for purposes of determining the child's continued SSI eligibility.[81]

Special Immigrant Juvenile Classification

H.R. 3409 would amend the Immigration and Nationality Act to allow youth who may now be denied access to special immigrant juvenile classification (due, for instance, to the length of application processing time or other reasons) to achieve this classification. Congress created the special immigrant juvenile classification in 1990 (P.L. 101-649) to allow a child who was born in a foreign country, was brought to the United States illegally, and who subsequently experienced abuse, neglect or abandonment, to petition for special immigrant juvenile classification. A child or youth who receives this classification may then petition to become a legal permanent resident of the United States and may thus legally secure a driver's license, get a job, obtain a mortgage, and do any number of other things necessary to successfully live as an independent adult in this country.[82]

Services and Protections for Children in Foster Care

Federal law currently requires states to provide certain protections for each child in foster care, and these are primarily related to ensuring the child's safety and finding a permanent home for the child. Several proposals would amend child welfare programs authorized under Title IV-B or Title IV-E of the Social Security Act to authorize or require that additional services or protections be offered to children in foster care, including activities related to a child's educational stability, receipt of medical services, and access to court advocates or other supports.

[81] For more description of these and additional changes proposed by H.R. 1104, see CRS Report RL33855, *Child Welfare: Social Security and Supplemental Security Income (SSI) Benefits for Children in Foster Care,* by Adrienne L. Fernandes, Scott Szymendera, and Emilie Stoltzfus.

[82] For information on the Special Immigrant Juvenile Classification, see Sally Kinoshita and Katherine Brady, *Immigration Benchbook for Juvenile and Family Court Judges*, Immigration and Legal Resource Center, San Francisco, CA: January 2005, pp. 8-19; and with special attention to child welfare issues: Kathleen McNaught and Lauren Onkeles, *Improving Outcomes for Older Youth: What Judges and Attorneys Need to Know,* U.S. Department of Health and Human Services, National Resource Center for Youth Development, Tulsa OK: 2004, pp. 83-87; and Annie E. Casey Foundation, *Undercounted, Underserved: Immigrant and Refugee Families in the Child Welfare System,* Baltimore, MD: 2006, pp. 22-23.

Educational Stability

Children in foster care often experience more than one placement, and this is disruptive to their academic achievement as well as to peer and adult relationships.[83] H.R. 5466 would require states to take new steps to ensure stability in school placement for children in foster care and would permit support for certain transportation costs to facilitate these efforts. Under current law, states are required to maintain a health and education record for every child in foster care, including the name and address of the child's educational provider, a child's grade level performance, school record, and other relevant education information (as determined relevant by the state agency). States are also required to make assurances (as part of this health and education record) that a "child's placement in foster care takes into account the proximity to the school in which the child is enrolled at the time of placement."[84]

H.R. 5466 would further require that a state have a plan for ensuring the educational stability of each child in foster care. In addition to the current assurance that the child's placement take into account the proximity of the school where the child is enrolled at the time of the placement, the plan would need to discuss the efforts by the state agency to coordinate with appropriate local educational agencies to ensure a child may remain enrolled in the school he or she attended at the time of placement *or*, if remaining in that school is not in the child's best interest, efforts to coordinate with the appropriate educational agencies to ensure a child's immediate enrollment in a new school. Finally, H.R. 5466 would amend the definition of a foster care maintenance payment (under Title IV-E of the Social Security Act) to include the cost of "reasonable travel" for a child to remain in the school he or she was enrolled in at the time of the placement. This would permit states to seek partial reimbursement of these transportation costs provided they were incurred on behalf of Title IV-E eligible children in foster care.[85]

Alternatively, the School Choice for Foster Care Kids Act (H.R. 4311, introduced by Representative Bachmann) would amend the CFCIP and its related Education and Training Vouchers (ETV) to permit funds from those programs to be used for vouchers to pay transportation costs related to school-age children in foster care attending public elementary or secondary education schools or to enable those school-age children to pay tuition for attendance at private elementary or secondary schools.[86] As discussed above, under current law CFCIP and ETV funds must be used to help foster youth (of any age) who are expected to leave care without placement in a permanent family—and those who have exited foster care on or after their 18th birthday—to successfully make the transition to independent adulthood, and this may include helping them secure a high school diploma (or a post-secondary degree).[87]

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[83] For more information, see the website of the National Working Group on Foster Care and Education, which includes a number of legal and child welfare advocacy groups, as well as foster parents, state human service administrators, and others. See http://www.casey.org/FriendsAndFamilies/Partners/NWGFCE.

[84] Section 475(1)(C) of the Social Security Act.

[85] Transportation cost is one of a number of issues that have been identified by advocates as barriers to educational stability for children in foster care. See Jessica Feierman and Janet Stotland, "Lessons Learned" Education Stability Conference, Chicago, October 23-24, Education Law Center-PA and the Juvenile Law Center; see http://www.abanet.org/child/educ-1.pdf.

[86] See also Dan Lips, "Foster Care Children Need Better Education Opportunities," *Backgrounder*, Heritage Foundation (June 5, 2007), available at http://www.heritage.org/research/Education/upload/bg_2039.pdf.

[87] Section 477(a) of the Social Security Act.

Coordination of Child Welfare and Medical Services

Many children in foster care have significant health and mental health needs.[88] Although virtually all children in foster care are eligible for Medicaid, needed services are not always made available. Some research has identified "coordination" between child welfare agencies and health and mental health agencies as important to improving foster children's access to necessary services.[89] Under current law, Title IV-E eligible children in foster care are automatically deemed eligible for Medicaid, and most or all non-Title IV-E eligible children in foster care are eligible through other pathways (e.g. income status).[90] States are now required to maintain certain health and medical records for each child in foster care[91] and to describe how they consult with physicians and other appropriate medical professionals to assess the health and well-being of children in foster care and to determine appropriate medical treatment for them.[92]

H.R. 5466 would provide that states must, in addition, have a plan for ongoing oversight and coordination of health care services (including mental health and dental services) for any child in foster care. The bill would require each state to coordinate and collaborate with its child welfare agency and its agency administering Medicaid (in consultation with pediatricians, other health care experts, and recipients of child welfare services) to develop such an oversight and coordination plan. In addition to the current requirement that states consult with and involve physicians in assessing and providing appropriate medical treatment to children in foster care, this oversight and coordination plan would be required to outline (1) a schedule for initial and follow-up health screens that meet reasonable standards of medical practice; (2) how health needs identified through screens will be monitored and treated; (3) how medical information for children in care will be updated and appropriately shared (which may include development and implementation of electronic health records); (4) steps to ensure continuity of health care services (which may including establishing a medical home for every child in care); and (5) oversight of prescription medicines. Finally, H.R. 5466 would provide that the requirement for a health oversight and coordination plan must not be "construed to reduce or limit the responsibility" of the state Medicaid agency to provide care and services for children who are also served by the child welfare agency.

Reasonable Efforts to Place Siblings Together

H.R. 5466 would require states, as part of their Title IV-E foster care plan, to make "reasonable efforts" to place siblings in the same foster care placement unless the state documents that a joint placement would be contrary to the safety or well-being of any of the siblings. Approximately

[88] See testimony of John Landsverk, U.S. Congress, House Ways and Means Committee, Subcommittee on Income Security and Family Support, "Hearing on Health Care for Children in Foster Care," July 19, 2007.

[89] For example: U.S. Department of Health and Human Services, Office of Inspector General, Memorandum to Susan Orr, Associate Commissioner for the Children's Bureau and Dennis G. Smith Director Center for Medicaid State Operations, from Brian Ritchie, Acting Deputy Inspector General for Evaluation and Inspections, "Children's Use of Health Care Services While in Foster Care: Common Themes," OEI-07-00-00645, July 2005; Neal Halfon, et al, "Public Agencies and the Organization of Health Care Services for Children in Out-of-Home Care: Findings from a National Survey, presented at the Annual Meeting of the Association of Maternal and Child Health Programs, March 2, 2004; and Testimony of Abraham Bergman, M.D., at U.S. Congress, House Ways and Means Committee, Subcommittee on Income Security and Family Support, "Hearing on Health Care for Children in Foster Care," July 19, 2007.

[90] Section 1902(a)(10)(A) of the Social Security Act.

[91] Section 475(1)(C) of the Social Security Act

[92] Section 422(b)(15) of the Social Security Act.

70% of children in foster care have another sibling who is also in care. For a variety of reasons, including the size of sibling groups, adequacy of foster care placement settings, differences in needs of siblings, and other reasons, many siblings are not placed in the same foster care home. However the benefits of placing siblings together can include sense of stability and well-being for children in foster care, including better outcomes for these children as well as streamlined casework efforts for child welfare workers.[93]

Access to Court Advocates

Most, but not all, children who enter foster care do so because of parental abuse or neglect. The Child Abuse Prevention and Treatment Act (CAPTA) currently provides that states must have "provisions and procedures" for an appropriately trained guardian ad litem (GAL), including an appropriately trained court-appointed special advocate (CASA), to be appointed to represent any child in a judicial proceeding involving child abuse or neglect. (Available data suggest that despite this CAPTA requirement, not all abused or neglected children receive such a court advocate.[94]) A CASA for Every Child Act of 2007 (H.R. 3283, introduced by Representative Cardoza) would require states (as a part of their Title IV-E state plan for foster care) to have in place the "laws and procedures" necessary to ensure that each child in foster care has a CASA.

Funding for CASAs

Currently, the Victims of Child Abuse Act authorizes some funds ($13.2 million appropriated for FY2008) to initiate, sustain, or expand local CASA programs and to provide related training and technical assistance to local CASA programs. As amended in 2005 (P.L. 109-162) the purpose of this funding is to "ensure that by January 1, 2010, a court appointed special advocate shall be available to every victim of child abuse or neglect in the United States who needs one." Funding provided under this authorization is administered by the Department of Justice, which typically provides these funds to the National CASA Association. The National CASA, in turn, makes subgrants to local CASA programs and provides related training and technical assistance.[95]

H.R. 3283 would prohibit any federal reimbursement of CASA-related costs under the Title IV-E foster care program unless the CASA provided is a volunteer in a member program of the National CASA (and that member program is in compliance with national standards of the Association). Separately, S. 2237 (an omnibus crime control and prevention measure) would authorize a discretionary appropriation of $8 million for each of FY2008 through FY2011 for the following purposes: to expand recruitment and build capacity of CASA programs located in the 15 largest areas to serve populations over-represented in foster care; to expand recruitment of volunteers to serve populations of children significantly over-represented in foster care; and to provide training and supervision of volunteers in CASA programs serving children significantly over-represented in foster care.[96] S. 2237 would provide that any CASA funds authorized or appropriated under the authority of that law would be available to supplement, not supplant, other federal CASA funding.

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[93] Child Welfare Information Gateway, *Sibling Issues in Foster Care and Adoption: A Bulletin for Professionals,* Washington, D.C.: U.S. Department of Health and Human Services, 2006.

[94] *Child Maltreatment 2005* (April 2007), Table 6-6.

[95] For background information on this program, see CRS Report RL32976, *Child Welfare: Programs Authorized by the Victims of Child Abuse Act of 1990*, by Emilie Stoltzfus.

[96] S. 2237 would authorize this funding under the Strengthening Abuse and Neglect Courts Act (SANCA, P.L. 106-314).

Training and Standards

Under current law, CAPTA provides that a GAL/CASA who is appointed to advocate for a child in an abuse or neglect proceeding is expected to gain a firsthand and clear understanding of the situation and needs of the child and to make recommendations to the court concerning the best interests of the child.[97] S. 2237 would require HHS (in conjunction with the Department of Justice) to develop model standards for curriculum and training for individuals who act as GALs or CASAs, or other attorneys *ad litem* in child abuse and neglect cases. (The bill describes the intended purpose of this model curriculum as to improve the quality of representation by, and uniformity of practice of, such individuals throughout the country.) S. 2237 would further require HHS, again after consulting with the Department of Justice, to develop caseload standards for these child representatives in abuse or neglect cases. Finally, the bill would provide that not later than 18 months after the enactment of these provisions, HHS must disseminate the curriculum and caseload standards to state child welfare agencies (who receive Title IV-B, Subpart 1 funds). H.R. 5466 would permit states to claim reimbursement of the cost of certain training for GALs or CASAs, as well as other abuse and neglect court attorneys or personnel. (See "Increased Federal Support for Training," below.)

Provision of Mentoring

Several federal programs now target specific populations of vulnerable youth for provision of mentoring services.[98] The Foster Care Mentoring Act of 2007 (S. 379 introduced by Senator Landrieu) would permanently authorize funding (under Title IV-B of the Social Security Act) for grants to provide mentoring to children in foster care. The grants would be awarded by HHS to states (or to a political subdivision of the state if it serves a "substantial number" of youth in foster care) to support, establish, and expand networks of public and private community entities to provide this mentoring. Successful applicants would be eligible to receive a maximum of $600,000 annually, would be required to spend no less than 50% of the federal grant funds for training (and no more than 10% on program administration) and would need to provide matching funds (in cash or in kind) of 25%. The bill would authorize $15 million for this grant program in each of FY2008 and FY2009 and "such sums as may be necessary" in every following fiscal year.

S. 379 would also authorize an additional $4 million for each of FY2008 and FY2009 (and "such sums as may be necessary" in each following fiscal year) for a national hotline (or website) to provide information to individuals interested in being mentors to youth in foster care. The bill would further require an annual report on the mentoring program for children in foster care (prepared by HHS and submitted to Congress) and a separate evaluation of the program's effectiveness.

Finally, S. 379 would amend the Higher Education Act to authorize loan forgiveness for any individual who has served as a mentor in a statewide foster care mentor program for at least 200 hours in a single calendar year. The amount of loan forgiveness would equal $2,000 for every 200 hours of eligible service (not to exceed a total of $20,000). The bill would further provide that funds otherwise made available under the Higher Education Act—to make "payments to lenders for the discharge of indebtedness of deceased or disabled individuals"—would be available to pay for this loan forgiveness program.

[97] Section 106(b)(2)(A)(iii) of the Child Abuse Prevention and Treatment Act (CAPTA).

[98] See CRS Report RL34306, *Vulnerable Youth: Federal Mentoring Programs and Issues*, by Adrienne L. Fernandes.

Reducing the Number of Children Who Run Away from Foster Care

H.R. 3409, H.R. 4208, and S. 2560 would require a state to include in its Title IV-E state plan a description of the written policies and procedures it has to reduce the incidence of children missing or running away from foster care and to locate and return such children to foster care. As of the last day of FY2005, states reported that close to 4,500 children had "exited" foster care by running away.

Preventing Certain Foster Care Placements

Several proposals seek to prevent placement of children in foster care solely due to inadequate housing or because this is the only way a parent(s) may access mental health services for a seriously emotionally disturbed child.

Prohibition on Removal Related to Homelessness

H.R. 3409, H.R. 4208, and S. 2560 would amend the state plan provisions of the Title IV-E foster care program to require states to have in effect "laws and procedures" necessary to ensure that no child is placed in foster care solely because the child's family is homeless or living in substandard housing. The proposed change would further require that the state, as a part of meeting the federal Title IV-E state plan requirements, have in place laws and procedures to ensure that it will work with a family and state housing authorities to secure permanent housing for any family that includes a minor child and is homeless or "at risk" of becoming homeless.

Alternative to Relinquishment for Mental Health Reasons

The Keeping Families Together Act (S. 382, introduced by Senator Collins, and H.R. 687, introduced by Representative Ramstad) would amend Title V of the Public Health Service Act to authorize competitive "family support grants" for states to establish systems of care for mental health treatment and services that would prevent the practice of parents relinquishing their children to child welfare or juvenile justice custody in order to obtain mental health services for their children. The GAO reported in April 2003 that a survey of 19 state child welfare directors and juvenile justice officials in 30 counties had produced a conservative estimate of 12,700 children who, during FY2001, were placed in child welfare or juvenile justice custody so that the children could receive mental health services. State and county officials surveyed by GAO reported that limitations of public and private health insurance, inadequate supplies of mental health services, limited availability of services through mental health agencies and schools, and difficulty meeting eligibility rules of services influenced these kind of placements.[99]

S. 382 and H.R. 687 would authorize $8.5 million for FY2008, $11.5 million for FY2009, and $20 million in each of FY2010 through FY2013 to award grant funds to states to establish a "sustainable system of care" for child and youth (under the age of 21) who are in state custody for the purpose of receiving mental health services or who are at risk of this kind of placement. States winning grant funds would be able to use them to establish a state and local infrastructure that permits interagency cooperation and cross-system financing; expand public health insurance programs to cover an array of community-based mental health and family support services; deliver mental health care and family support services to eligible children and youth (but only as part of a transition to a "sustainable system" of mental health and family support services);

[99] U.S. General Accounting Office (GAO), *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services*, GAO-03-397, April 2003.

provide outreach and public education; provide the necessary training and professional development for personnel who work with eligible children and youth to implement the state's plan; and to carry out other administration of the plan, including development and maintenance of data systems. The grant funds would be received over six years and states would be required to provide increasing levels of matching funds (beginning in the third year of the grant). A state plan would need to be submitted before the second year of the grant and, among other things, would need to describe how the planned "sustainable" system of care would be financed—including through contributions from state agencies, state use of funds via Medicaid options or waivers, the State Children's Health Insurance Program (SCHIP), and other public health insurance mechanisms.

The grants would be administered within HHS by the Substance Abuse and Mental Health Services Administration (SAMHSA), in consultation with a task force established to examine the issue of mental health and children and youth in the child welfare and juvenile justice systems, including issues related to access to services and the role of agencies in promoting access to these services for children and youth. The task force would need to be established jointly with the Administration for Children and Families (ACF) and the Centers for Medicaid and Medicare Services (CMS) (both also within HHS); the Office of Juvenile Justice and Delinquency Prevention (OJJDP) (at the Department of Justice); and the Office for Special Education (at the Department of Education).

The task force would be required to work with stakeholders to make recommendations to Congress for strategies to improve the delivery of mental health services to children and youth with serious emotional disturbances and to develop improved reporting requirements concerning the numbers of children entering child welfare and juvenile justice systems solely to access mental health service (including creating standard definitions for categories of data to be collected). The task force would further be required to encourage interagency cooperation to eliminate the practice of custody relinquishment; provide advice to SAMHSA on administering the grant program; coordinate and deliver technical assistance for states and agencies implementing the grant program; make recommendations for breaking down barriers to coordination in existing federal programs; and, finally, provide a biannual report to Congress on its recommendations and progress in carrying out its duties. S. 382 and H.R. 687 would authorize funding of $1 million in each of FY2008 through FY2013 to fund this task force (with 60% of funds authorized for HHS, 20% for the Department of Justice, and 20% for the Education Department).

Other Supports and Services for Kinship Care Providers

As discussed above, several bills would permit federal support (via Title IV-E of the Social Security Act) for guardianship payments to relative caregivers who become the legal guardians of eligible foster children (see "Support for Subsidized Guardianship," above). Other provisions in these bills would seek to strengthen family connections for children in foster care (or at risk of entering foster care), including children in formal or informal kinship care arrangements, and to facilitate greater use of relatives as foster parents.

Children Cared for by Relatives

Kinship care may be broadly defined as a living arrangement in which an adult who is not the parent of a child but who is emotionally close to a child (typically a grandparent or other relative) assumes primary responsibility for raising this child. Children may be in a kinship care situation for a variety of reasons, including their parents' military deployment, death or serious illness,

poverty, abuse of drugs or alcohol, mental illness, or incarceration. At least 2.3 million children are believed to be living with grandparents or other relatives who are responsible for their care,[100] and some estimates of children living with kin who are responsible for them are larger.[101]

The very large majority of children living in kinship care arrangement are doing so by private arrangement. On the last day of FY2006, only about 125,000 children were in formal (court-ordered) foster care and were living with a relative.[102] At the same time, some children living in kinship care arrangements neither came to this living arrangement privately, nor are they currently in foster care. These children may be living with a relative after some involvement with the child welfare agency (including prior foster care placement) or because of some court activity.[103]

Toward the goal of increased family connections for children in foster care (or at risk of entering care), H.R. 5466 would authorize discretionary funds for competitive grants (under Title IV-B of the Social Security Act) to (1) establish "kinship navigator" programs; (2) help identify family members with whom a child may be placed; or (3) encourage involvement of family members in planning for a child's care through family group decision-making meetings. S. 661 and H.R. 2188 would authorize discretionary funds for competitive grants to establish kinship navigator programs and would, separately require states to identify and give notice to relatives when a child is placed in foster care. Finally, H.R. 5466, S. 661, H.R. 2188, and H.R. 3409 would each permit states to establish separate licensing standards for relative foster care providers.

Kinship Navigator

Kinship providers may lack the legal authority to enroll the children they are caring for in their neighborhood school or to access other education services for them. In addition, they may not have the legal right to make needed medical care decisions for these children, and they may not have access to information about the kinds of health, education, or other services they and the children they care for may be eligible to receive. Further, advocates note that many kin must assume care for a young relative with little notice and may be unprepared or lack critical social or community supports for their efforts.[104]

S. 661 and H.R. 2188 would establish an independent program authorizing the Administration for Children and Families (ACF) within HHS to make grants to states, metropolitan agencies, or

[100] The 2002 National Survey of American Families (conducted by the Urban Institute) estimated 2.3 million children lived with grandparents or other relatives *without either parent present in the household*. See "Children in Kinship Care," Assessing the New Federalism, Urban Institute, no date (based on 2002 survey).

[101] Estimates of the number of children in kinship care are considerably larger if they include households where a parent may be present but the grandparent is considered responsible for the child. For FY2006, the American Community Survey (conducted by the U.S. Census Bureau) reported 2.6 million children lived with grandparents who were responsible for them (of which 1 million lived in households without any parent present) and that an additional 2.0 million children lived in the households of "other relatives." Although the available analysis of these data do not indicate the number of those 2.0 million children for whom the "other relatives" were responsible (nor the number who were living without at least one parent in the household), it seems plausible that a significant share of these children are also in kinship care living arrangement. (See U.S. Census Bureau, Table S. 1001, Grandchildren Characteristics and Table B09006, Relationship to Householder for Children Under 18 Years in Households. American Community Survey, 2006.)

[102] U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *The AFCARS Report (14)* (Preliminary FY2006 Estimates as of January 2008).

[103] "Children in Kinship Care," Assessing the New Federalism, Urban Institute, no date (based on 2002 survey).

[104] Generations United, "Grandparents and Other Relatives Raising Children: The Second Intergenerational Action Agenda," January 2005. See also Rob Geen, "Providing Services to Kinship Foster Care Families," pp. 129-152 in Rob Geen, ed., *Kinship Care: Making the Most of a Valuable Resource*, The Urban Institute Press: Washington, D.C.: 2003.

tribal organizations to establish information and referral systems for kinship care providers known as "kinship navigator" programs. By contrast, H.R. 5466 would establish Family Connection Grants as a new subpart under Title IV-B of the Social Security Act and would permit state, local, or tribal child welfare agencies, as well as certain private nonprofit organizations to seek grants from HHS for three separate purposes, one of which would be to establish kinship navigator programs. (For more information, see "Family Connection Grants" below.)

Under S. 661 and H.R. 2188, the primary purpose of the Kinship Navigator grants would be to help kinship caregivers learn about and access services or other assistance needed for the children they are caring for and for themselves. Grantees would be required to support certain core activities, including information and referral systems (to link kinship caregivers to the full range of supports available to them) and promotion of partnerships between public and private, not-for-profit agencies to help the agencies better meet the needs of kinship caregiving families and to familiarize them with the special needs of those families. Additional activities that grantees would be permitted to fund include a kinship care ombudsman and other efforts designed to assist caregivers in obtaining benefits and services or intended to improve their caregiving. S. 661 and H.R. 2188 would authorize $25 million in FY2008, $50 million in FY2009, and $75 million in FY2010 for these grants. Grants would be for a maximum of three years, and no less than half of the funds appropriated would need to be awarded to state agencies. After the first year of funding, grantees would need to provide increasing levels of non-federal support for the kinship navigator program, and as part of a final report on services and activities funded by the grant, a grantee would be required to describe to ACF its plans for continuing the program after the expiration of the federal grant. Finally, ACF would be permitted to reserve up to 1% of any of the funds appropriated to provide technical assistance to grantees related to the purposes of the Kinship Navigator program.

Family Connection Grants

As noted above, H.R. 5466 would establish a new competitive grant program under Title IV-B of the Social Security Act known as Family Connection Grants and would authorize HHS to award grants to help children in foster care, or at risk of entering foster care, reconnect with family members through implementation of (1) kinship navigator programs to help kinship caregivers learn about and access programs and services and obtain assistance in meeting the needs of the children they are caring for and their own needs; (2) intensive family-finding efforts using "search technology" to find biological family members of children in the child welfare system and work to reestablish relationships and explore ways to find permanent family placements for children; or (3) family group decision-making meetings for children in the child welfare system that engage and involve family members in plans to nurture children and protect them from further abuse and neglect.

Eligible grantees, including state, local, or tribal child welfare agencies and nonprofit organizations (with experience in working with foster children or children living in kinship care arrangements) would need to submit an application to HHS that, among other things, would describe how funds received would be used to implement one or more of the programs; identify the types of children and families to be served, the manner in which they would be identified and recruited, and the initial number expected to be served; and give assurance that the grantee would cooperate fully in any evaluation of the program by HHS. (Private agency grantees would need to document support from the relevant local or state child welfare agency.) The bill would authorize $50 million in each of FY2009 through FY2013 for these grants. Family Connection Grants would be authorized for a maximum of three years, and HHS would be authorized to make no more than 20 payments annually under the program. After the first year of funding, grantees

would need to provide increasing levels of non-federal support for the activities supported by the Family Connection Grant. Finally, HHS would be required to reserve 3% of any of the funds appropriated for these grants to conduct "rigorous evaluation" of the activities they fund, and it would be permitted to reserve 2% of any funding to provide technical assistance to grantees under the program.

Notify Relatives of a Child's Placement in Foster Care

States must now "consider giving preference" to suitable relatives (over non-relatives) when placing a child in care.[105] S. 661, H.R. 2188 and S. 3038 would additionally seek to ensure that relatives are aware of and understand their options related to a child's placement and care. S. 661 and H.R. 2188 would require a state, within 60 days of removing a child from the custody of his/her parents, to identify the child's grandparents and other adult relatives and to give them notice of the removal (subject to exceptions due to family or domestic violence). The notice to the identified relatives would need to specify that the child is being removed from the custody of his/her parent(s) and to explain options the relative has under federal, state, or local laws to participate in the child's care and placement. In addition, it would need to explain any options that might be lost if the relative fails to respond to the notice. S. 3038 would require that states "exercise due diligence" to identify and provide similar notices to adult relatives of children entering foster care. S. 3038 would further provide that the state must also give notice to any non-parent relative caretakers of a child who is receiving federal or state TANF assistance—provided that the child's placement with that relative occurred following the family's interaction with the child welfare agency.

Licensing Standards

H.R. 2188, S. 661, H.R. 5466, and H.R. 3409 would amend the requirements of Title IV-E to permit states to establish and maintain separate licensing standards for relative caregivers of foster children. The separate standards would be required "at a minimum" to protect the safety of the child and specifically to provide for criminal records checks. H.R. 2188, S. 661, and H.R. 3409 would require those criminal record checks to be the same as those now required for prospective foster or adoptive parents. H.R. 5466 does not specify this requirement.[106] Both H.R. 5466 and H.R. 3409 would further amend the licensing requirement to provide that any child in foster care must be placed in a licensed foster family home or institution (not just those who are receiving federal support under Title IV-E or Title IV-B of the Social Security Act).

Under current federal child welfare policy, states are required to have in place licensing standards for foster family homes (or institutions that care for foster children) that are "reasonably in accord with recommended standards of national organizations concerned with [such] standards." These standards must at least address "admission policies, safety, sanitation, and protection of civil rights" and must apply to *any* foster family home (or institution) that receives federal support (under Title IV-B or Title IV-E of the Social Security Act).[107] Separately, states are required to have background check procedures in place for prospective foster and adoptive parents and may

[105] Section 471(a)(19) of the Social Security Act.

[106] H.R. 5466 would establish separate federal criminal record check requirements for relatives who are receiving kinship guardianship assistance payments on behalf of a child for whom they have assumed legal guardianship. (See "Support for Subsidized Guardianship," above.) However, the bill does not reference that separate criminal records check language in this provision and the intent is not certain.

[107] Section 471(a)(10) of the Social Security Act.

not approve a placement until these checks have been completed. Further, a prospective foster or adoptive parent with certain criminal convictions may not be an approved caregiver.[108] A child placed in an unlicensed home (or institution) or with an individual who is not "approved" may not receive a federally supported (Title IV-E) foster care maintenance payment.[109]

Since the January 2000 publication of the federal regulations to implement the Adoption and Safe Families Act of 1997 (ASFA, P.L. 105-89), HHS has clearly stated that licensing standards for relatives and non-relatives must be the same.[110] More recently, changes made in the Deficit Reduction Act of 2005 (P.L. 109-171) also limit the ability of states to seek reimbursement under Title IV-E for eligible costs related to case planning for children living in unlicensed (relative) homes.[111] And finally, the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248) requires fingerprint-based federal criminal history checks of prospective foster and adoptive parents, as well as child abuse and neglect registry checks.[112]

Yet for a variety of reasons, relative caregivers are less likely to be licensed than non-relative caregivers. Unlike non-relative foster care providers, relatives typically do not anticipate being a foster care provider, and thus they do not seek a license before becoming a foster parent. Further, some relatives may find the licensing process intrusive and too time consuming, and in some states, licensing of relatives was not routinely done.

Housing Support

The Housing Protection and Foster Care Prevention Act of 2008 (H.R. 5645, introduced by Representative Maxine Waters) would amend the United States Housing Act to exclude eligible guardianship subsidies made on behalf of former foster children from the income that is counted for purposes of determining a family's eligibility and rent for federally supported housing such as Section 8).[113] The proposed change would make the treatment of eligible guardianship subsidies equal to the treatment of foster care maintenance payments, which are not considered income when determining eligibility and rent in federal housing assistance programs.[114] To be excluded from the family's income for either purpose, the bill would require that the guardianship subsidy must be made to the legal relative guardian of a child (under 18 years of age) who was previously in foster care (for at least 12 months) but for whom foster care supervision has ended. Further, the agency must have determined that the child will not be reunited with his/her parents and that the relative guardian is the most appropriate permanent placement for the child, and, finally, the court must have terminated the child's dependency. In April, Representative Waters announced that the Department of Housing and Urban Development (HUD) had further analyzed its income-

[108] Section 471(a)(20) of the Social Security Act.

[109] Section 472(c) and Section 471(a)(20)(A)(i) and (ii) of the Social Security Act.

[110] See "Section-by-Section Discussion of Comments," pp. 4032-4033," in supplementary information to final rule, *Federal Register*, January 25, 2000.

[111] CRS Report RL33155, *Child Welfare: Foster Care and Adoption Assistance Provisions in Budget Reconciliation*, by Emilie Stoltzfus.

[112] CRS Report RL34252, *Child Welfare: Federal Policy Changes Enacted in the 109th Congress*, by Emilie Stoltzfus.

[113] A family receiving federal housing assistance is typically required to pay 30% of its adjusted income in rent. Reducing a family's adjusted income, therefore, reduces the amount of rent the family is required to pay (or, inversely, increases the subsidy provided to the family). For more information on federal housing assistance see CRS Report RL32284, *An Overview of the Section 8 Housing Programs*, by Maggie McCarty.

[114] 24 *C.F. R.* 5.609(c)(2)

counting rules and that it would no longer need to count eligible guardianship subsidies for children who were formerly in foster care as part of the family income.[115]

Additional Provisions Related to Kin Accessing Services

H.R. 2188 would amend the definition of "family support" that is included in the Promoting Safe and Stable Families (PSSF, Title IV-B, Subpart 2 of the Social Security Act) program to include "assisting kinship caregivers or guardians in locating and accessing needed services." States must now (generally) spend no less than 20% of their federal PSSF funds on "family support" services, and the H.R. 2188 proposal would explicitly include certain aids to kinship caregivers in this spending. H.R. 2188 would further provide that, as part of establishing a Title IV-E kinship guardianship program as is elsewhere proposed in the bill, a state must certify to HHS that it will inform workers who prepare case plans for children in foster care, as well as families who are considering guardianship, of the full range of permanency options for children. Further it would require states to provide, or otherwise make accessible to these workers and families, information on the range of physical and mental health, financing, housing, counseling, employment, education, and other support services that guardians and children may receive.

Foster and Adoptive Parent Recruitment

The Foster and Adoptive Parent Recruitment Act of 2007 (H.R. 4198, introduced by Representative Lampson) and the Adoption Improvement Act of 2007 (S. 2395, introduced by Senator Clinton) propose separate grant programs aimed at improving child welfare agency recruitment practices for finding foster or adoptive parents.

States are now required to have a plan to do "diligent recruitment" of foster and adoptive parents that reflect the racial and ethnic diversity of children in the state for whom foster and adoptive homes are needed.[116] Further, states are permitted to seek federal reimbursement (under Title IV-E of the Social Security Act) for a portion of their costs related to licensing foster family homes and recruiting foster families.[117] In the initial round of Child and Family Services Reviews (CFSR), which are conducted to assess state conformity with federal child welfare policy, most states (n=31) were told they needed to make improvements in their foster and adoptive parent recruitment plans.[118] The final reports from the initial round of the CFSR discussed use of multiple recruitment efforts, including those aimed at the general population (via television, billboards, or other mass media); targeted recruitment in neighborhoods (via church or other faith-based groups; and child specific recruitment (via websites or adoption photo books). Those reports also noted that some states have sought to streamline recruitment efforts by combining their training and licensing efforts for foster and adoptive parents. Nonetheless, as part of the CFSR, stakeholders in many states talked about a shortage of foster and adoptive homes—or more specifically—about a shortage of these homes for specific populations of children (e.g., teenagers or children with special health needs). The HHS Office of Inspector General, in a 2002

[115] See Representative Water's statement on this issue at http://www.house.gov/apps/list/press/ca35_waters/PR080410_kingap.html As of mid-June 2008 no formal notice on this matter had been published by HUD in the *Federal Register*.

[116] Section 422(b)(7) of the Social Security Act.

[117] *Code of Federal Regulations*, 45 C.F.R. 1356.60(c)(2)(vii).

[118] This initial round of reviews was conducted from 2001 through 2004. CRS Report RL32968, *Child Welfare: State Performance on Child and Family Services Reviews*, by Emilie Stoltzfus.

report, emphasized the importance of both targeted and child-specific recruitment, as did more recent research that was supported by the Casey Family Programs.[119]

One Church, One Child

H.R. 4198 would amend Title IV-E to add a new section authorizing competitive grants to eligible entities that conduct "one church, one child" foster and adoptive parent recruitment programs. These programs rely on churches and church leaders to help identify families willing to adopt or foster a child. Some states and localities now use this recruitment approach, and it has been identified as a useful recruitment strategy by child welfare researchers, advocates, and practitioners.[120] H.R. 4198 would permit state or local governments, local public agencies, community-based or nonprofit organizations, or private groups (including charitable or faith based organizations) to apply for grants to establish or expand programs that "use networks of public, private, and faith-based organizations to recruit and train qualified foster parents and qualified adoptive parents and provide support services to adoptive and foster children and their families." The bill would authorize not more than $20 million for each of FY2008 through FY2013 for this purpose. Separately, H.R. 4198 would require HHS to enter into a contract with a nationally recognized nonprofit adoption promotion and foster parent recruitment organization to establish a National Clearinghouse for Adoption Promotion and Foster Parent Program and would authorize up to $1 million in funds for each of FY2008 through FY2013 for this purpose.

Improving Agency Responsiveness

The Adoption Improvement Act of 2007 (S. 2395) would authorize funding for grants to child welfare agencies to strengthen their responsiveness to prospective adoptive parents and increase prospective adoptive parents' access to adoption information.

Surveys of interest in adoption indicates that many more people consider adopting children than ultimately act on that thought. Further, a recent survey that looked at how child welfare agencies responded to individuals who expressed interest in adopting children concluded more could be done by those agencies to encourage and enable interested adults to complete an adoption. The researchers estimated that annually 240,000 calls are made to child welfare agencies concerning adoption, but in most cases (78%), the caller did not subsequently fill out an application or attend an orientation meeting; and only about 6% of the calls resulted in a completed adoption home study—a prerequisite for any adoption. This research further showed that prospective parents seeking adoption information faced numerous discouragements, including difficulty contacting the child welfare agency, unpleasant and unhelpful initial contacts, and continued frustration throughout the adoption process.[121]

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[119] U.S. Department of Health and Human Services (HHS), Office of Inspector General, *Recruiting Foster Parents*, OEI-07-00-00600 (May 2002); and Casey Family Programs, *Recruitment and Retention of Resource Families: Promising Practices and Lessons Learned*, Breakthrough Series Collaborative (June 2005). Hereafter Casey Family Programs, *Recruitment and Retention of Resource Families.*

[120] Casey Family Programs, *Recruitment and Retention of Resource Families*, pp.18, 23-26. See also Eileen Mayers Pasztor, et al., Foster Parent Recruitment, Development, Support, and Retention: Strategies for the Twenty-First Century," pp. 665-686 in Gerald P. Mallon and Peg McCartt Hess, eds., *Child Welfare for the 21st Century: A Handbook of Practices, Policies, and Programs*, p. 674.

[121] Jeff Katz, "Listening to Parents: Overcoming Barriers to the Adoption of Children from Foster Care," Evan B. Donaldson Institute, in collaboration with Harvard University and the Urban Institute: (March 2005). See also Urban Institute Child Welfare Research Program, "Foster Care Adoption in the United States: An Analysis of Interest in Adoption and a Review of State Recruitment Strategies, " Commissioned by the National Adoption Day Coalition (November 2005).

S. 2395 would authorize HHS to award grants to state, regional, local, or tribal child welfare agencies (that have primary responsibility to facilitate adoptions from the child welfare system) to increase the share of prospective adoptive parents who actually adopt a child(ren) from the agency through a variety of methods. Among other things, a grantee would be required to (1) involve a legitimate and independent marketing firm in its adoption recruitment, training, and retention efforts (to incorporate business and consumer product marketing techniques); (2) establish a specialized adoption hotline, hire employees with counseling backgrounds and provide them with specialized training for adoption work, and establish a process to incorporate feedback from all prospective adoptive parents (to improve the first contact between the agency and prospective adoptive parents); (3) coordinate all adoption sources to give prospective parents immediate access to all children available for adoption; (4) provide written information about necessary qualifications for adoptive parents, as well as clear information on a range of other topics ranging from the agency adoption process and procedures to how children and prospective parents are matched, and the availability of post permanency services; (5) involve successful adoptive parents in designing recruitment strategies, as well as in training and matching children with parents (including developing a mentoring system to link prospective adoptive parents with parents who have successfully adopted and establishing an adoption advisory committee to strengthen matching procedures); and, finally, (6) participate in program evaluation.

HHS must (through an expert entity) conduct research on the successes and challenges of grantees' efforts and must report on its findings to Congress (no later than two years after the date on which funds are dispersed). HHS would further be required to include in the "national annual review of child welfare agencies" an examination of each state's progress regarding accessibility and responsiveness of child welfare agencies to prospective adoptive parents. The act would authorize $50 million for these grants and would require HHS to award no fewer than 10 grants.

Tribal Access to Title IV-E Funds and Technical Assistance

The Tribal Foster Care and Adoption Access Act of 2007 (S. 1956, introduced by Senator Baucus and H.R. 4688 introduced by Representative Pomeroy) and the omnibus child welfare policy bill, H.R. 5466, would permit Indian tribes, tribal organizations, or tribal consortia to make direct claims under Title IV-E of the Social Security Act for federal reimbursement of eligible foster care or adoption assistance payments and other related costs made on behalf of eligible children under tribal responsibility. Current law permits states to make these direct claims but does not permit tribes to do so. Some tribes, however, currently enter into intergovernmental agreements with states to receive some Title IV-E funding on behalf of children in care under tribal responsibility.

Tribal Access to Title IV-E Funds

S. 1956, H.R. 4688 and H.R. 5466 would provide that to receive Title IV-E foster care and adoption assistance funds, a tribe, tribal organization, or tribal consortium must operate a Title IV-E program, have a cooperative agreement with a state, or submit to HHS a description of the arrangements it has made (jointly, and in consultation with the state) to provide foster care and adoption assistance (including certain protections for the child in care). These bills would permit tribes, tribal organizations, and tribal consortia to receive Adoption Incentives on the same basis as states. Further, under S. 1956 and H.R. 4688, eligible tribes, tribal organizations or tribal consortia would be permitted to receive a part of a state's allotment of Chafee Foster Care Independence Program and Education and Training Voucher funds (in proportion to the tribal entity's share of the foster care population living in the state) in exchange for providing independent living services to tribal youth in the state who are "aging out" or are expected to "age

out" of tribal foster care. Alternatively, those bills would provide that states and tribes are explicitly permitted to enter into cooperative agreements to ensure services to older tribal foster youth and youth aging out of foster care under the CFCIP program.

Definition of Tribe

S. 1956 would define "Indian tribe" as any federally recognized tribe, including an Alaska Native village, and would define "tribal organization" as the governing body of any such tribe. H.R. 4688 and H.R. 5466 would use this same definition, except for native groups in Alaska, which they would define to mean any one of 12 Alaska Native Regional nonprofit corporations and the Metlakatla Indian Community of the Annette Islands Reserve.

Plan Requirements

With certain exceptions, S. 1956, H.R. 4688, and H.R. 5466 would require a tribe, tribal organization, or tribal consortium seeking to operate a Title IV-E program to meet all of the requirements currently made of states—including, for instance, those related to case planning and review for each child in foster care and data reporting. All three bills, however, would modify certain plan requirements. Rather than operating programs on a "statewide" basis, each tribe would be required to identify the service area or areas and populations to be served under its Title IV-E plan. Further, in lieu of the requirement that states establish uniform foster home licensing standards that are "reasonably in accord with the recommended standards of national organizations concerned with standards for such institutions or homes," all three bills would generally permit tribes to establish licensing standards that met "tribal standards" to ensure the safety of and accountability for children placed in foster care. (However, H.R. 5466 would *not* permit tribes in Alaska to establish separate licensing standards.) Finally, S. 1956, H.R. 4688, and H.R. 5466 would permit HHS to modify *any* requirement of Title IV-E if it determined that doing so would best advance the interests and safety of the tribal children being served.

Background Checks. S. 1956 and H.R. 4688 would modify Title IV-E state plan requirements related to background checks for prospective foster and adoptive parents in slightly different ways. (H.R. 5466 would not amend these provisions relative to tribes.) S. 1956 would *require* tribes to conduct background checks in accordance with the rules of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA) *instead of* the procedures described in Title IV-E of the Social Security Act (and would further require that tribes include child abuse and neglect registry checks as a part of those procedures). By contrast, H.R. 4688 would *permit* tribes to choose between the background check procedures detailed in Title IV-E or the ICPFVPA procedures (and to conduct child abuse and neglect registry checks).

Tribal Matching Rates

S. 1956, H.R. 4688, and H.R. 5466 would provide that tribes operating a Title IV-E plan (or those with a cooperative agreement with a state or other formal arrangement) would receive reimbursement of foster care maintenance payments and adoption assistance based on the per capita income of the tribal population served, and HHS would determine the appropriate reimbursement rate for their administrative and training costs. However, in no case could a tribe receive a lower reimbursement rate than that provided for the state in which it is located. To meet Title IV-E matching requirements, tribes would be permitted to use federal, state, tribal, or private funds (including in-kind funds).

Title IV-E Eligibility Requirements for Indian Children

Children must be the subject of a variety of judicial determinations in order to be eligible for Title IV-E support. These include a judicial finding that the child's home was found "contrary to the welfare" of the child at the time of removal from the home and that reasonable efforts were made to prevent the child's removal from home. These findings must be made within specific time frames. S. 1946 and H.R. 4688 would permit tribes to use certain affidavits or other legal instruments to establish retroactively that these findings had been made. S. 1946 and H.R. 4688 would also provide that any residency requirement related to a state's prior law Aid to Families with Dependent Children (AFDC) program is not applicable for purposes of establishing federal Title IV-E eligibility of a child in foster care under tribal responsibility. (H.R. 5466 does not include these or any similar provisions.)

Other Stipulations and Requirements

S. 1956, H.R. 4688, and H.R. 5466 would require HHS (in consultation with Indian tribes and tribal organizations) to issue regulations regarding tribal access to Title IV-E funds. Separately, S. 1956 and H.R. 4688 would stipulate that none of the legislative changes proposed (with regard to tribal access to Title IV-E funding) would affect the current and ongoing responsibility of states to provide foster care, adoption assistance, or independent living supports or services to eligible tribal children or youth, if those supports or services are not made available under a tribal program, cooperative agreement, or other formal arrangement. Further, a state would not be permitted to terminate foster care or adoption assistance payments currently made on behalf of a tribal child (and for whom it receives federal reimbursement) regardless of whether there was a cooperative agreement between the state and tribe or the tribe chose to operate a Title IV-E plan.

National Child Welfare Resource Center for Tribes

As passed by the Senate on February 26, 2008, Section 211 of S. 1200 (the Indian Health Care Improvement Act Amendments of 2008) would appropriate $1 million in each of FY2009 through FY2013 for HHS to establish a National Child Welfare Resource Center for Tribes. The resource center must not be established as part of any existing national child welfare resource center and must be "specifically and exclusively dedicated to meeting the needs of Indian tribes and tribal organizations" by providing information, advice, and educational materials regarding the types of services, administrative functions, data collection, program management, and reporting that are provided for under Title IV-B and Title IV-E of the Social Security Act.

Improving the Child Welfare Workforce

H.R. 5466 would establish a new grant program, which would be intended to help states improve the quality of their child welfare services by improving the quality and capacity of their child welfare workforce and would also permit states to claim federal reimbursement for 75% of training costs associated with a broader range of workers. H.R. 2314 (introduced by Representative Jerry Weller) would specifically allow states to claim the federal Title IV-E reimbursement rate for training costs associated with state-license or state-approved private child welfare agency workers who provides services to foster or adopted children. Finally, the Child Welfare Workforce Improvement Act (S. 2944, introduced by Senator Hillary Clinton) would expand both the range of workers and the scope of topics for which states would be permitted to claim federal reimbursement of75% under the Title IV-E training provisions. S. 2944 would also require a National Academy of Sciences Study (NAS) regarding child welfare workforce issues

and would require HHS to issue regulations mandating state reporting of certain child welfare workforce data.

Grants to Support Quality Child Welfare Workers

In 2003 the GAO reported that a survey of state child welfare agencies, including interviews with caseworkers in some states, and an analysis of exit interviews completed by child welfare staff across the country, identified a number of factors believed to hinder both recruitment and retention of child welfare workers and supervisors or to negatively affect the quality of child welfare services. These included high caseloads (with extensive related administrative work), lack of supervisory support, low salaries, the risk of violence, and insufficient time to take training.[122]

H.R. 5466 would require the Administration for Children and Families (ACF) (within HHS) to make grants to eligible states to implement strategies that make measurable improvements related to the following specific indicators in a state: the caseload size of child welfare workers, the number of child welfare caseworkers assigned to a single supervisor, the average duration of child welfare workers (supervisors and non-supervisors), the number or share of child welfare workers with (relevant) higher education degrees, and the range and scope of training opportunities as well as the number or share of child welfare staff engaged in training.

The bill would appropriate $200 million for this purpose in each of FY2009 through FY2013. Every state (including the District of Columbia and each of the territories) would be eligible to receive an allotment of funds, provided they submitted an application that stated which indicator (or indicators) they planned to improve, how they intended to spend funds to make these improvements, what the status of those indicators was currently (i.e., baseline data), and which gave assurance that they would submit annual reports to HHS on spending under the plan and the effects of the spending with regard to improving the selected indicators. HHS would be permitted to disapprove an application if it included a plan to spend the funds in a manner substantially similar to the way a state had spent funds in the last two of five years and provided that prior spending did not result in "meaningful progress." After setting aside funds for the territories, Indian tribes, and for training and technical assistance, allotments to the states (including the District of Columbia) would be based on the relative share of children (among all states receiving the grant funds). However, pro rata adjustments would be made, if necessary, to ensure that no state would receive less than $300,000 annually. A state would need to spend at least $1 on the purposes of the grant for every $3 allotted to it in federal grant funds. The bill would also provide additional evaluation and accountability measures related to use of these grant funds and would require HHS (in consultation with the states, representatives of child welfare workers, and advocates for children and families) to prescribe regulations for the grant program.

Increased Federal Support for Staff Training

Under current law, a state is permitted to seek federal reimbursement of 75% of its cost of providing short-term training for individuals employed (or preparing to be employed by) a public child welfare agency—provided the training is related to foster care and adoption assistance activities (allowed under Title IV-E of the Social Security Act).[123] Many states make use of

[122] U.S. General Accounting Office (GAO), *Child Welfare: HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff,* GAO-03-357, March 2003. See also CRS Report RL32690, *The Child Welfare Workforce: An Overview,* by Linda Levine.

[123] Section 474(a)(3)(A) of the Social Security Act. States are also permitted under current law to seek reimbursement of 75% of the costs of long-term training at institutions of higher education for current or prospective public child

private agencies to provide casework and other services to children in foster care. H.R. 5466 and H.R. 2314 would additionally permit states to receive federal reimbursement of 75% of the cost of short term program-related training for child welfare workers employed by private agencies that provide services to Title IV-E eligible children (but only if those private agencies are state-licensed or state-approved child welfare agencies). S. 2944 would permit states to claim this reimbursement rate for both short-term *and long-term* training of public and private child welfare agency workers.

In addition, H.R. 5466 and S. 2944 would permit states to seek reimbursement under Title IV-E (75% reimbursement rate) for short-term training costs related to certain individuals who work for, or in, abuse and neglect courts, as well as individuals who work for public or private (non-profit) agencies that serve children. S. 2944 would further amend the Title IV-E training provisions to broaden the scope of topics for which state child welfare agencies may seek federal (Title IV-E) reimbursement and would also permit funds from private nonprofit education institutions to be used by the state as "matching" funds under the Title IV-E training provisions. Finally, S. 2944 would require the National Academy of Sciences to conduct a national study of child welfare staff, and, among other things, to provide recommendations related to federal regulations (to be issued by HHS) that would require state reporting on child welfare staff characteristics and provision of services.

Other Child Welfare or Related Proposals

Some additional changes proposed to child welfare or related policy are discussed below.

Home Visiting

The Healthy Children and Families Act of 2007 (S. 1052, introduced by Senator Salazar and H.R. 3024, introduced by Representative DeGette) would amend the Medicaid and SCHIP programs to explicitly permit the use of these funding streams for "evidence-based nurse home visitation programs." The Education Begins at Home Act (S. 667, introduced by Senator Bond and H.R. 2343, introduced by Representative Danny Davis) would authorize funds for formula grants to states to "expand quality programs of early childhood home visitation" and would also make changes intended to strengthen home visiting as a component of the Early Head Start program. For FY2008, Congress appropriated $10 million to fund a nurse home visitation initiative. The Joint Explanatory Statement accompanying the omnibus FY2008 appropriations measure (H.R. 2674, enacted as P.L. 110-161) provides that HHS must "ensure that states use the funds to support models that have been shown, in well-designed randomized controlled trials, to produce sizeable, sustained effects on important child outcomes such as abuse and neglect" and to "support activities to assist a range of home visitation programs to replicate the techniques that have met these high evidentiary standards."[124] This funding appears largely consistent with a

welfare agency workers, and (under Section 474(a)(3)(B) of the Social Security Act) they may seek 75% reimbursement of short-term training of staff of child care institutions (caring for adopted children or children in foster care), as well as for current or prospective foster or adoptive parents. Under current law, eligible training claims may only be made on behalf of children who are Title IV-E eligible and only with regard to activities considered Title IV-E eligible. H.R. 2314 would not change this. H.R. 5466 would expand Title IV-E eligibility to potentially all foster or adoptive (with special needs) children and thus expand the share of training (and other foster care) costs that would potentially be reimbursed by the federal government. S. 2944 would remove the restriction related to Title IV-E eligibility for purposes of training claims only, and as mentioned above would also expand the topics that could be covered.

[124] This information is based on the version of H.R. 2764 and the accompanying Joint Explanatory Statement (Division G) as posted on the House Rules Committee website December 17, 2007. See http://www.rules.house.gov/

request by HHS in its FY2008 Budget for $10 million in funds to enable it to make competitive grants to states to "encourage investment of existing funding streams into evidence-based nurse home visitation programs." The FY2009 HHS budget requests a continuation of this funding.[125]

Home visiting for "at-risk" parents is advocated as a way to prevent abuse and neglect; reduce the cost to government that is associated with such abuse and neglect; and improve the health, safety, and well-being of the children and families served. Program models vary but typically services are intended to improve family or parent functioning, promote the physical health of children and mothers as well as the social and emotional development of children, and to ensure children's school readiness. Depending on the program model, these services may be delivered by nurses, social workers, teachers, or para-professionals.[126] Numerous home visiting program evaluations have been carried out. At least one program model has been found to be both effective in improving outcomes for those served as well as reducing costs to government.[127] At the same time, results from many evaluations have shown mixed or no effects and researchers caution that home visiting is not a panacea.[128]

Parenting Education

S. 2237 would amend the Child Abuse Prevention and Treatment Act (CAPTA) to authorize $545 million to provide "parent education and counseling services and family strengthening services," as well as referral and counseling for adoption services. The bill would stipulate that any funds appropriated under this authority are to be distributed through the Community-Based Grants to Prevent Child Abuse and Neglect (Title II of CAPTA). Under that program local, community-based grantees in each state are required to support parent education, leadership, and mutual support efforts, all of which are intended to improve parenting skills and in so doing prevent child abuse and neglect.[129]

Under the Promoting Safe and Stable Families (PSSF) program (Title IV-B, Subpart 2 of the Social Security Act), states are required to spend a portion of the federal funds they receive for both family support and family preservation services and the definition of both of these service categories includes improving parenting abilities. For example, the definition of "family preservation services" includes "services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving these skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition."[130] In addition, states

110_fy08_omni.htm.

[125] U.S. Department of Health and Human Services, Administration for Children and Families FY2008 Budget Justifications, p. 115. For more information about the initiative as proposed and as funded by Congress, see section on "Home Visiting" in CRS Report RL34121, *Child Welfare: Recent and Proposed Federal Funding*, by Emilie Stoltzfus.

[126] See Miriam Wasserman, "Implementation of Home Visitation Programs: Stories from the States," Chapin Hall Center for Children: University of Chicago (September 2006). Deanna Gomby, *Home Visitation in 2005: Outcomes for Children and Parents*, Invest in Kids, Committee for Economic Development, working paper number 7, July 18, 2005.

[127] Julia B. Isaacs, "Cost-Effective Investments in Children," The Brookings Institution: Washington, D.C., January 2007, pp. 15-17. Judith Glazner, et al. "Final Report to the Administration for Children and Families: Effect of Nurse Family Partnerships on Government Expenditures for Vulnerable First-Time Mothers and their Children in Elmira, New York, Memphis Tennessee, and Denver Colorado," (no date).

[128] Deborah Daro, "Home Visitation: Assessing Progress, Managing Expectations," Ounce of Prevention Fund and Chapin Hall Center for Children at the University of Chicago (2006).

[129] Section 206(a)(3) of CAPTA.

[130] Section 431(1)(E) of the Social Security Act defines "family preservation services" for purposes of the PSSF

must spend a portion of their PSSF funds on "adoption promotion and support," and this service category is broadly defined to include any activity that encourages the adoption of a child out of foster care (when this is in the child's best interest). (S. 2237 does not propose to amend this program.)

Funds provided for family preservation under the PSSF program are intended to serve families at high risk of having a child/ren enter foster care or who may be reunited with a child in foster care. In either case, these are typically families with an open child welfare case—whether the child remains in the home or has been removed to foster care. By contrast, as implemented by HHS, funds provided under CAPTA's community-based grant program may not be used to serve families who have an open child welfare case (regardless of whether the child is living at home). Instead, they are intended to reach and serve families *before* child welfare involvement is needed.

Child welfare workers regularly come into contact with caregivers whose parenting skills they assess as "poor."[131] At the same time, federal policy charges child welfare agencies with ensuring the safety and well-being of children broadly and more specifically with providing "reasonable efforts" to prevent the removal of a child from his or her home, or, whenever safe and appropriate, to return a child who has been placed in foster care to his or her home.[132] It should be no surprise then that parent training is a widely offered child welfare service—with at least one estimate suggesting that annually as many as 800,000 families receive parent training as a child welfare service.[133]

Research indicates, however, that despite its widespread use, child welfare agencies frequently do not pay for parent training (and possibly as a consequence do not often control the kind of training provided) and that the effectiveness of the training models used has rarely been evaluated or otherwise shown as effective. A recent nationally representative survey found that in the majority of counties (61%), child welfare agencies do not always pay for the provision of parent training; instead the service is provided (and funded) by another community organization. While acknowledging that research available on effective models of parent training for child welfare-involved families is limited (and that this is particularly true where neglect is the reason for the involvement as opposed to physical abuse), researchers nonetheless advocate more attention by child welfare agencies to what is known about effective parent training and to implementing those

program. See also definition of "family support services" at Section 431(2) of the Social Security Act.

[131] Across a nationally representative sample of children who were in families that were the subject of a child abuse and neglect investigation, the large majority (79%) of parents whose children were removed from their care following the investigation were assessed as having "poor parenting" skills by child welfare workers, and this was also true of nearly half (47%) of the parents in families where the child welfare agency opened a case to provide services to the child and family in the home. Finally, "poor parenting" skills were reported by child welfare workers for one in five (20%) of the parents whose children remained in the home following an investigation and for whom no child welfare agency case was opened. See Richard Barth, et al., "Parent-Training Programs in Child Welfare Services: Planning for a More Evidence-based Approach to Serving Biological Parents," *Research on Social Work Practice*, September 2005, vol. 15, no. 5, p. 357 (Table 1).

[132] For the broadest mandate, see purposes of the Social Security Act's Title IV-B programs: Child Welfare Services, Section 421 and Promoting Safe and Stable Families, Section 430, as well as requirements at Section 422(b)(8)(iii) and (iv). For "reasonable efforts" requirement, see Section 471(a)(15) and 472(a)(2)(ii).

[133] Presentation of Richard Barth at "Child Protection and Parent Training Programs," sponsored by the Brookings Institution, Washington, D.C., July 26, 2007. A nationally representative study of children who remained in their homes following an investigation by the child protection agency (and without regard to whether a child welfare cased was opened) close to one-third (30%) received parent training. (USDHHS, NSCAW - CPS Component, 2005, p. 8-12.) Additionally, among a nationally representative survey of children who were in foster care for at least one year, 40% of the biological caregivers from whom the children had been removed, received parent training (USDHHS, NSCAW - OYFC Component, 2003, p. 115).

models or at least the principles behind those models. They also suggest that a single model is unlikely to meet the range of needs among child welfare-involved families, given the different ages and developmental needs of the children in these families, and because the parenting skills most deficient in a family where neglect is the main issue are likely different from those where physical abuse (or child behavior) is the major reason for child welfare involvement.[134]

Infant Safe Haven

S. 2237 would require states receiving certain newly proposed funding (related to law enforcement and victims assistance) to have in place an "infant safe haven" law that includes specific provisions related to the legal and anonymous relinquishment of care and responsibility for a newborn.[135] Since 1999, nearly every state has enacted infant safe haven legislation.[136] Federal legislation enacted in 2002 (P.L. 107-133) explicitly permits states to use PSSF funds to "support infant haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a State law."

S. 2237 would require state infant safe haven laws to include the following provisions: permit a parent to anonymously leave a newborn baby with a medically trained employee of a hospital emergency room without criminal or other penalty. (States would be permitted, however, to pursue criminal or other penalties if the newborn showed signs of abuse or appeared to have been intentionally harmed.) S. 2237 would further require that this state infant safe haven law include a "mechanism to encourage and permit" a hospital employee in the receiving hospital to collect information about the medical history of the family subject to the approval of the parent, and it must require that immediately following the relinquishment, law enforcement entities search state and federal missing person databases (to ensure the child has not been reported as missing). Finally, the state law would be required to include a plan for publicizing the state's safe haven law.

A summary analysis of infant safe haven laws in place as of November 2004 suggests that many state laws have similar provisions to those that would be required by S. 2237. That analysis showed that safe haven providers are defined in state laws to include a variety of settings, including hospitals, emergency medical services, police stations, and fire stations; states have defined a range of ages under which an infant may be legally relinquished to a safe haven provider (but most provide a limit between three days and one month); typically these state laws provide for the relinquishing parent's anonymity and that no abandonment charges may be filed (except in cases where child abuse or neglect is indicated) and that the parent(s) relinquishing the baby may not be compelled to provide personal information (or accept information offered); and many states require the safe haven provider to ask the parent for family and medical history information (although in some states the safe haven provider is required to attempt to give the parent(s) information about the legal effects of leaving the infant and information about referral

[134] Michael S. Hurlburt, "Building on Strengths: Current Status and Opportunities for Improvement of Parent Training for Families in Child Welfare," pp. 81-106 in Ron Haskins, Fred Wulczyn, and Mary Bruce Webb, eds. *Child Protection: Using Research to Improve Policy and Practice*, The Brookings Institution: Washington, DC, 2007.

[135] S. 2237 would require a state to establish a safe haven law, as described in the text above, no later than three years after its enactment provided the state was receiving one of two new grants proposed to be established by the act. Those grants are for federal assistance to state and local law enforcement and for education, prevention, and victim assistance. S. 2237 provides that the Justice Department must make grants for these purposes to a variety of eligible entities and would authorize new funding for them.

[136] Hawaii is the most recent state to enact such legislation (summer 2007). As of September 2007, Alaska and Nebraska were the only states that had not enacted infant safe haven laws. (In addition, the District of Columbia does not have an infant safe haven law.)

services). Finally, children relinquished to a safe haven provider are typically transferred to the custody of a child welfare agency, which is expected to petition for the termination of the parental rights of the child's birth parents and to seek an adoptive home for the child. Some states permit the relinquishing parent to petition to reclaim his or her parental rights typically within a specified time period and a smaller number of states have provisions for a father who did not relinquish the child to petition for the child's custody.[137]

Advocates of safe haven laws believe they will reduce the number of infants discarded (or abandoned) in dangerous places, preventing risk to the newborns and possible death. Eliminating the fear of prosecution, they argue, enables a desperate birth parent to act in the child's best interest and ensure the child's safety, even when the parent does not feel able to personally care for the child. Others argue that the laws encourage irresponsible behavior and might induce birth parents to simply relinquish the child rather than to seek additional support and services. By allowing birth parent anonymity, they further argue that important medical or other genetic information may be lost forever to the child. Further, they add that these laws might interfere with the parental rights of fathers, if they are unaware of the baby's birth and subsequent relinquishment.[138] Some practical considerations in implementing the laws have included ensuring public awareness of the laws (so that pregnant women and their partners know about this option) as well as ensuring knowledge of the law's provisions among employees at safe haven providers. Finally, the timing and conduct of termination of parental rights proceedings with regard to children left with a safe haven provider may also be an issue.

Children of Incarcerated Parents

S. 2237 would authorize funds ($2.5 million for each of FY2008 and FY2009) for the Federal Bureau of Prisons to carry out a pilot program to collect certain information about the children of federal prisoners as part of its standard intake procedures (e.g. number of children, their ages, and living arrangement). The pilot program would also require a review of policies, practices, and facilities to ensure that—"as appropriate to the health and well-being of the child"—they support a relationship between the family and the child, and, further, to "identify training needs of staff concerning the impact of incarceration on children, families and communities, age-appropriate interactions, and community resources for families of incarcerated persons." Close to 88% of prisoners are in state prisons rather than federal prisons, and thus they are under the jurisdiction of state correctional agencies rather than the Federal Bureau of Prisons.[139] S. 2237, however, would require the Federal Bureau of Prisons to "encourage" state correctional agencies to implement the same intake procedures; policy, practices and facilities review; and staff-training related measures that would be required of the Federal Bureau of Prisons under this pilot program.

More than 2.4 million children are estimated to have a parent (or parents) who is incarcerated in a state or federal prison or in a local jail, and many more children (5.1 million) are estimated to have a parent who is on probation or under parole.[140] Children whose parents come into contact

[137] Information is based on state statutes as of November 2004 when 46 states had enacted safe haven laws. See Child Welfare Information Gateway, "Infant Safe Haven Laws," State Statutes Series, U.S. Department of Health and Human Services, Current through November 2004.

[138] Evan B. Donaldson Adoption Institute, "Unintended Consequences: "Safe Haven Laws are Causing Problems, Not Solving Them," released March 2003, available at http://www.adoptioninstitute.org/whowe/Last%20report.pdf.

[139] See William Sobol, et al., "Prisoners in 2006," *Bureau of Justice Statistics Bulletin*: U.S. Department of Justice, Office of Justice Programs (December 2007).

[140] Estimates are for 2002 and are based on survey data from earlier years that was applied to the FY2002 population of

with the criminal justice system, and in particular, those children with incarcerated parents, their caregivers, and their incarcerated parents have unique needs and concerns related to preserving family connections.[141] S. 2237 would further authorize "such sums as may be necessary" in FY2008 and FY2009 for HHS to fund the activities of the Federal Resource Center for Children of Prisoners, "including conducting a review of the policies and practices of State and Federal corrections agencies to support parent-child relationships, as appropriate for the health and well-being of the child." This resource center was created in 2001 through a three-year cooperative agreement with the National Institute of Corrections at the Department of Justice (and was initially operated by the Child Welfare League of America (CWLA)). "With the close of Federal Resource Center Operations, CWLA turned over training activities, selected web pages, and other remaining resources to Family and Corrections Network."[142]

Role of Child Protective Agencies

In related but separate provisions, S. 2237 would require HHS to review and make available to states a report on any recommendations regarding the role of state child protective services at the time of a person's arrest and, by regulation, to establish services to preserve families affected by the incarceration of a family member ("as appropriate to the health and well-being of any child involved"). The share of children coming into contact with the child welfare system whose caregiver(s) have come into contact with the criminal justice system appears substantial. A recent nationally representative survey of children in families investigated because of an allegation of abuse or neglect found that as many as one in three of these children had a primary caregiver with an arrest record at some point in their adult lives, and one in eight children in families investigated because of abuse or neglect allegations had a primary caregiver (usually the mother) who had been recently arrested (i.e. within roughly six months of the reported maltreatment). Compared to other children in families that were the subject of abuse or neglect, children whose primary caregivers were *recently* arrested were more likely to have been the subject of abuse or neglect allegations that involved abandonment or neglect and were less likely to be alleged victims of physical abuse. Further, these children with a primary caregiver who had been recently arrested were more likely to have a parent with a substance abuse or mental health problem and to be in families where basic needs went unmet (generally indicating extreme poverty) or there was domestic violence.[143]

Court Teams for Maltreated Infants and Toddlers

The Safe Babies Act of 2007 (H.R. 1082, introduced by Representative DeLauro and S. 627, introduced by Senator Harkin), as well as S. 2237, would authorize funds to support training and technical assistance for local teams to promote developmentally aware and appropriate court services for infants and toddlers (age three years or younger) who have been abused or neglected

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inmates and others under correctional supervision. See Christopher Mumola, "Parents Under Correctional Supervision: Past Estimates, New Measures," presentation for "Children of Parents in the Criminal Justice System: Children at Risk," NIDA Research Meeting, November 6, 2006, available at http://www.nida.nih.gov/whatsnew/meetings/children_at_risk/epidemiology.html.

[141] The federal government provides mentoring funds for this population of vulnerable youth. See CRS Report RL34306, *Vulnerable Youth: Federal Mentoring Programs and Issues*, by Adrienne L. Fernandes.

[142] This information is from the Family and Corrections Network website; see http://www.fcnetwork.org/Resource%20Center/resource-center-main.htm.

[143] Susan D. Phillips and James P. Gleeson, "Children, Families, and the Criminal Justice System," Research Brief, Center for Social Policy and Research, Jane Addams College of Social Work, University of Illinois at Chicago, July 2007.

and for their families. The purpose of the court teams would be to promote the well-being of infants and toddlers and their families, help prevent recurrence of abuse or neglect in these families, and promote timely reunification (or other permanent outcome) for abused or neglected infants or toddlers who are removed to foster care. S. 627 would authorize $5 million in each of FY2008 through FY2012 for these purposes (and H.R. 1082 would authorize such sums as may be necessary for the same time period) to enable the Department of Justice (Office of Juvenile Justice and Delinquency Prevention) to make a grant to a "national early childhood development organization" to support such local court teams and, separately, to establish a National Court Teams Resource Center.[144] The court-team modeled was pioneered in Miami-Dade County, Florida, and has since been replicated in a number of other locations.[145]

White House Conference on Children and Youth

In 1909, President Theodore Roosevelt convened an influential "White House Conference on the Care of Dependent Children." In each subsequent decade (through 1970), a large White House Conference on matters related to children or youth was convened.[146] H.R. 5461 (introduced by Representative Fattah) and S. 2771 (introduced by Senator Landrieu) would require the President to convene a White House Conference on Children and Youth in 2010 "to encourage improvements in each State and local child welfare system and to develop recommendations for actions."[147]

H.R. 5461 and S. 2771 would establish specific processes for the planning and conduct of the conference, and, among other things would provide that the policy of Congress is that "Federal, State, and local programs and polices should be developed to reduce the number of children who are abused and neglected, reduce the number of children in foster care, and to increase the number of children in permanent placements through family reunification, kinship placements, and adoption." The bill would require HHS to plan, conduct, and convene this White House Conference, in cooperation with other "appropriate" federal entities, including the Department of Justice, Department of Education, and the Department of Housing and Urban Development. The bills would authorize total discretionary appropriations of $10 million to accomplish its purposes.

Adoption Tax Credit

The Adoption Tax Credit (and a related income tax exclusion) is available to offset the qualified costs of taxpayers who adopt an eligible child. In tax year 2005 (most recent data available), about $362 million in adoption tax benefits were claimed by more than 56,400 taxpayers. These

[144] H.R. 1082/S. 627 would amend the Juvenile Justice and Delinquency Prevention Act to authorize this grant program.

[145] For more information about the court teams proposed and related research, visit the Zero to Three Court Teams website at http://zttcfn.convio.net/site/PageServer?pagename=ter_pub_courtteams.

[146] U.S. Department of Health, Education and Welfare, Social and Rehabilitation Services, Children's Bureau, *The Story of the White House Conferences on Children and Youth,* 1967, and Jennifer Michael and Madeleine Goldstein, "Reviving the White House Conference on Children," *Children's Voice,* January/February 2008. According to the Child Welfare League of America, which publishes *Children's Voice*, smaller conferences (or symposiums) on more limited topics related to children and their families were sponsored by the White House in more recent decades but these were not generally comparable in scope or size to the earlier conferences.

[147] These bills are largely identical. S. 2771, however, would not explicitly identify the directors of tribal governments' child welfare systems as required delegates to the conference; would provide somewhat greater direction to HHS regarding the contents of a required final report on the conference; and would not include the freely associated states (i.e. Federated States of Micronesia, Republic of Palau and Republic of the Marshall Islands) in its definition of states.

benefits helped offset the cost of adoption for more than 65,800 children.[148] Close to half of the children for whom these adoption benefits were claimed are believed to have been adopted domestically (primarily through private arrangements), about one-third are expected to have been adopted from other countries (international adoption), and the remaining children had special needs and were adopted domestically (primarily out of foster care).[149]

Under current law, an individual adopting a child with special needs (defined in the tax code to include most children adopted out of foster care) may claim the full amount of the adoption tax credit without incurring (or documenting) any cost related to that adoption. H.R. 5466 and S. 3038 would require states (as part of their Title IV-E foster care and adoption assistance plan) to inform individuals who are adopting children from foster care (or those known by the state to be considering such adoptions) of their potential eligibility for the adoption tax credit (without the need to document expenses).

The tax code provision related to claiming a tax credit for special needs adoptions without the need to document costs, as well as those specifying the current amount of the adoption tax credit and the income eligibility cutoff, is scheduled to "sunset" with tax year 2010. H.R. 273 (introduced by Representative Camp), H.R. 471 (introduced by Representative Joe Wilson), H.R. 1074 (introduced by Representative Tim Ryan), H.R. 3192 (introduced by Representative Lincoln Davis), and S. 561 (introduced by Senator Bunning) would ensure that the current provisions do not end but are instead made permanent.[150] H.R. 1074 and H.R. 3192 would also increase the amount of the maximum adoption tax benefits and would make the credit refundable. Separately, H.R. 4313 (introduced by Representative Bean) would expand the tax credit available to individuals who adopt children aged nine years or older.

Original Provisions and Those Subject to Sunset

The current adoption tax credit was established in 1996 (P.L. 104-188) and initially provided reimbursement of up to $5,000 in qualified adoption costs for any child, or up to $6,000 for adoptions of children with special needs (which was defined to mean most children adopted from foster care). The full credit amount was available for taxpayers with adjusted gross incomes up to $75,000, after which its value declined. The tax credit is not refundable. The Economic Growth and Tax Relief Reconciliation Act 2001 (P.L. 107-16) continued the credit as non-refundable but expanded it in several ways:

- it increased the maximum credit amount, initially to $10,000, and provided that it be adjusted annually for inflation (the 2007 maximum credit amount is $11,390).
- it increased the income limit for taxpayers, initially to $150,000, and provided that it be adjusted annually for inflation (the 2007 maximum income is $170,820); and

[148] Of the $362 million in tax benefits, a little more than $355 million were allowed via the credit and a little more than $6 million were claimed via the income exclusion. U.S. Treasury Department, Office of Tax Analysis, *Federal Income Tax Benefits for Adoption: Use by Taxpayers 1999-2005,* June 2007.

[149] Ibid. The number of adoptions supported with tax benefits by *kind* of adoption is not available for 2005. These shares are based on the total number of adoptions in 2004 for which tax benefits were claimed (n= 69,100) of which 48% were domestic, non-special needs; 34% were international adoptions; and 18% were domestic - special needs (primarily out of foster care) adoptions.

[150] Similar provisions apply with regard to an income tax exclusion of qualified adoption expenses. For more information about the tax credit and related exclusion, see CRS Report RL33633, *Tax Benefits for Families: Adoption,* by Christine Scott.

- it provided that the full credit amount is available to any taxpayer who adopts a child with special needs (without regard to actual costs of adoption).

Many of the tax provisions in P.L. 107-16, including the adoption tax benefits described here, were made subject to a "sunset" date of December 31, 2010, and this sunset would repeal the changes. Thus, beginning with tax year 2011, the adoption tax credit is set to revert to $5,000 (or $6,000 for special needs adoptions); the amount of the allowable credit would begin to decline for taxpayers with adjusted incomes of $75,000 or more, and taxpayers adopting children with special needs would again need to show qualified costs in order to claim the credit. H.R. 273, H.R. 471, H.R. 3192 and S. 561 would provide that the sunset does not apply to the adoption tax benefit changes made in P.L. 107-16.

Increased Adoption Tax Benefits

H.R. 1074 and H.R. 3192 would increase the maximum adoption tax credit (and exclusion) amount to $15,000 for tax year 2008 and, as is true in current law, would continue to provide an increased maximum in each following year by applying an inflation adjustment to the amount. Further, the bill would make the adoption tax credit refundable. This would allow taxpayers to be reimbursed for all qualified adoption costs without regard to whether they owed taxes in that amount for the given year. Currently taxpayers are permitted to carry over the part of the tax credit they are unable to use to offset their tax liability in future (up to 5) years. In tax year 2005, the amount of *unused* adoption tax credit carried forward to future years ($414 million) exceeded the amount of adoption tax credit allowed ($355 million) in that year.[151]

Tax Benefits for Older Child Adoptions

On the last day of FY2006, 129,000 children were in foster care waiting to be adopted, and close to 50,000 of those children were age 9 or older.[152] The Advocates Dedicated to Older Child Parental Tax Credit (ADOPT) Act of 2007 (H.R. 4313, introduced by Representative Bean) would amend the adoption tax credit provisions to provide additional tax benefits for families that adopt children aged 9 and older (beginning with tax year 2008). A taxpayer adopting a child who is 9 years of age or older would be able to claim the adoption tax benefits that currently exist; further, for each year after the year in which the adoption was finalized (until the child's 19th birthday), he or she could claim an additional $2,000 (adjusted annually for inflation) and without regard to any income limitation.

Relatively few of the adoptions currently supported by the federal adoption tax credit (or exclusion) are for older children. (Less than 15% of the adoptions supported by those benefits in tax year 2005 were for adoptions of children aged 10 years or older.)[153]

Post-Adoption Services for Birthparents

The Birthparents Assistance Act of 2008 (H.R. 5640, introduced by Representative Schmidt) would require HHS to make grants to, or enter into contracts with, public or private entities

[151] Ibid.

[152] U.S. Department of Health and Human Services (HHS) Administration for Children and Families (ACF), Children's Bureau, *The AFCARS Report #114* (Preliminary FY2005 Estimates as of January 2008). For analytic purposes, HHS defines the population of children "waiting" to be adopted as all those children reported as having a goal of adoption or whose parental rights have been terminated (excluding children 16 years old and older whose parental rights have been terminated and who have a goal of emancipation).

[153] Ibid.

(including child welfare or adoption agencies and faith-based organizations) to provide post-legal adoption services for birthparents or post-placement counseling to birth parents; establish and operate a national hotline to provide counseling for birthparents who have placed a child for adoption (or to offer other information about other services available to them); and train staff at hospitals and other appropriate birth care facilities regarding their interactions with birthparents and adoptive families. H.R. 5640 would also require HHS to provide technical assistance to grantees and, where appropriate to coordinate services provided by grantees with other adoption-related research, training, services and assistance it administers. The bill would further require HHS to directly (or via contract or grant) evaluate the implementation and effectiveness of services provided by grantees, identify the availability and use of post-placement services to birthparents, and provide a report to Congress not later than three years after the bill's enactment. To carry out its provisions, H.R. 5640 would authorize discretionary appropriations of $30 million for FY2009 and "such sums as may be necessary" for each of FY2010 through 2013.

Expired or Expiring Programs

The following program funding or other authorizations are set to expire with FY2008 or have already expired.

Adoption Incentives

Adoption Incentives (authorized under Section 473A of the Social Security Act) are bonus funds awarded to states that increase the number of children adopted out of foster care. Authority to appropriate funds for Adoption Incentives was most recently reauthorized in 2003 (P.L. 108-145) and is set to expire with FY2008. The Bush Administration, as part of its FY2009 budget, discusses proposed legislation to increase the amount of certain bonuses, and H.R. 5466 would reauthorize funding for the program through FY2013.

Adoption Incentives were initially created in the Adoption and Safe Families Act of 1997 (P.L. 105-89) as part of a larger legislative effort to encourage and expedite appropriate placement of children from foster care into adoptive families. The number of children adopted with public child welfare agency involvement increased significantly from 25,700 in FY1995 to 51,100 in FY2000. Since then the number of such adoptions has stabilized at between 50,000 and 53,000 annually (even as the number of children waiting to be adopted from foster care has declined).[154] For increases in adoptions finalized between FY1998 (first year incentives were awarded) through FY2006 (most recent awards made), states collectively earned $221 million. All states have won an award in at least one of these years (although no more than 44 states, including DC, did so in any one year). The largest bonus amounts, however, were paid in the program's earliest years (when adoptions were rising); in the most recent award cycle (for adoptions finalized in FY2006), 19 states earned a total of $7.4 million.

As provided in P.L. 108-145, for a state to be eligible to earn an incentive, it must increase the overall number of adoptions out of its foster care caseload, or the number of adoptions of those children aged nine or older. An eligible state may additionally earn a bonus for an increase in the number of children adopted from foster care who are Title IV-E eligible, have special needs, and are under the age of nine. The law establishes three "baselines" for each state: these are equal to all children adopted out of foster care in FY2002 (or any later year when that number was

[154] U.S. Department of Health and Human Services (HHS) Administration for Children and Families (ACF), Children's Bureau, "Adoptions of Children with Public Child Welfare Agency Involvement by State, FY1995-FY2005" (revised March 2007); available at http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/adoptchild05.htm.

higher), the number of children aged nine or older who were adopted in FY2002 (or any later year when that number was higher), and the number of Title IV-E eligible, special needs children under age nine who were adopted in FY2002 (or any later year when that number was higher). States are awarded a bonus of $4,000 for each adoption that exceeds the overall baseline; $4,000 for each older child adoption that exceeds the relevant baseline; and $2,000 for each Title IV-E eligible special needs child under the age of nine that exceeds the relevant baseline.

Proposals for Reauthorization

H.R. 5466 and S. 3038 would reauthorize funding for the Adoption Incentives program for FY2009 through FY2013 at the current annual authorization level of $43 million. Both bills would double the incentive award for increases in the adoption of children aged nine and older (from $4,000 to $8,000). H.R. 5466 would also double the incentive award for increases in the adoption of special needs children under the age of nine (from $2,000 to $4,000), while S. 3038 would increase this incentive award amount from $2,000 to $3,000. For purposes of the Adoption Incentive program, an increase in adoptions is determined on the basis of a state finalizing a higher number of adoptions (in the given category of adoptions) than it finalized in the base year. Both H.R. 5466 and S. 3038 would fix this base year at FY2007. In addition, provided additional appropriated funds were available, S. 3038 would permit states that increase their overall *rates* of adoptions from foster care to earn Adoption Incentive awards ($1,000 multiplied by the calculated increase in adoptions). Finally, both H.R. 5466 and S. 3038 would permit states to earn incentive awards related to placing children from foster care into legal guardianships. H.R. 5466 would award $4,000 for each additional such legal guardianship established by a state (as compared to the number it established in FY2007. Alternatively, provided additional appropriated incentive funds remained available, S. 3038 would authorize a bonus ($1,000) for each Title IV-E eligible relative guardianship agreement a state entered into in first year and for any increase in the number of those agreements established in subsequent years.

The President's Budget requests $20 million for Adoption Incentives in FY2009 (the FY2008 appropriation amount was $4 million). As included in H.R. 5466 and S. 3038, the Bush Administration also proposes to set FY2007 as the year in which the adoption incentive baselines are established, and also like those bills, it would not require that the baseline be adjusted in subsequent years if a state achieves a higher number of adoptions. In justifying this proposed change, the Administration notes that the "changed baselines will set goals for increasing adoptions that better reflect recent changes in the child welfare population and ensure those goals are within a state's reach so there is a true fiscal incentive to increasing adoptions."[155] Also like H.R. 5466 and S. 3038, the Administration proposes to double the adoption bonus for children aged nine and older (from $4,000 to $8,000). And like, S. 3038, it proposes to raise the award for younger special needs children by just 50% (from $2,000 to $3,000). The Administration notes that older children make up a growing share of the children waiting to be adopted, that inflation has eroded the original value of the incentives, and that the proposed increase in award amounts is "in recognition of the fact that states will have to invest additional resources and devote greater efforts in achieving adoption for the more challenging children who are waiting for adoption."[156] The Administration would also stipulate that Adoption Incentive funds received by a state could only be spent to finalize adoption or other permanency options. Currently states are permitted to

[155] U.S. Department of Health and Human Services, Administration for Children and Families *FY2009 Justifications of Estimates for Appropriations Committees,* February 2008, pp. D-92.

[156] Ibid.

spend incentive funds on any purpose authorized under Title IV-B or Title IV-E of the Social Security Act, including post-adoption services.[157]

Child Abuse Prevention and Treatment Act (CAPTA)

First authorized in 1974 (P.L. 93-247), funding for CAPTA was most recently reauthorized, through FY2008, by the Keeping Children and Families Safe Act of 2003 (P.L. 108-36). As of mid-June 2008, legislation primarily devoted to CAPTA reauthorization has not been introduced; however, several bills (listed below) propose amendments or would extend funding authority for CAPTA programs. The Administration's FY2009 budget requests a "straightline reauthorization" of the program with funding authority of "such sums as may be appropriated."[158] The Administration notes that it has again included $10 million in its requested FY2009 funding for CAPTA's discretionary activities component to continue the home visitation initiative (see "Home Visiting," above) and also states that the requested funding level includes "$500,000 to conduct a feasibility study on the creation, development and maintenance of a national child abuse and neglect offender registry."[159]

CAPTA authorizes funding for three grant programs: grants to states for improvement of their child protection system; grants to all states for use by community-based groups to prevent child abuse and neglect; and grants to eligible entities for research, pilot programs, or other activities related to the prevention and treatment of child abuse or neglect. Combined funding for these programs was authorized at $200 million for FY2004 and "such sums as may be necessary" for each of FY2005 through FY2008; however, total funding appropriated for CAPTA has never exceeded $106 million, and in FY2008 (P.L. 110-161), Congress provided a total of $105 million.[160] These funds are administered by HHS.

Proposed Amendments

As noted above, as of June 2008, no bill primarily related to reauthorization of CAPTA has been introduced; however a number of bills would amend CAPTA. These include the following.

- H.R. 3409, an omnibus youth policy bill, would make amendments that appear intended to ensure the issue of youth homelessness is given greater attention, and it would extend the current funding authority under CAPTA, authorizing total appropriations of $200 million for FY2009 and "such sums as may be necessary" for each of FY2010 through FY2013.
- S. 2237, an omnibus crime control and prevention bill, would authorize the appropriation of additional funds specifically for CAPTA's state grants to improve child welfare services ($200 million for each of FY2008-FY2012) and for the act's grants to support community-based activities to prevent child abuse and neglect ($200 million in each of FY2008 through FY2012) (see also "Services for Children and Families" above).

[157] Ibid, pp. D-91-D-96.

[158] Ibid, pp. D-57-D-70.

[159] Ibid, p. D-63-D-64. In P.L. 109-248, Congress required HHS to establish a registry of substantiated child abuse and neglect cases. For more information, see CRS Report RL34252, *Child Welfare: Federal Policy Changes Enacted in the 109th Congress*, by Emilie Stoltzfus.

[160] For more information about the most recent program reauthorization, see CRS Report RL31746, *Child Welfare Issues in the 108th Congress*, by Emilie Stoltzfus.

- S. 2237 would further amend CAPTA to provide a new funding authorization of $545 million to be distributed via CAPTA's community-based grants for parent education, counseling, and family strengthening services and for adoption referral and counseling (see also "Parenting Education" above).
- H.R. 5876, the Stop Child Abuse in Residential Programs for Teens Act of 2008 (introduced by Representative George Miller in April 2008 and reported by the House Education and Labor Committee in May 2008), would amend CAPTA to require states (within three years of the bill's enactment) to develop licensing standards related to certain residential programs that offer services for youth with emotional or behavioral issues as well as provisions and procedures to monitor and enforce program compliance with those standards. In addition, the bill would also require states to develop a public database of programs covered by these licensing standards providing information on any reports of child abuse and neglect at the programs.[161]
- S. 2341 would amend CAPTA to add a new grant program to develop individual development accounts for youth aging out of foster care; that act would authorize the appropriation of "such sums as may be necessary" specifically for this purpose (see also "Other Supports or Assistance Proposed" above); and finally
- S. 2944 would amend CAPTA to require HHS to enter into an agreement with the National Academy of Sciences for a national study of the child welfare workforce (see also "Improving the Child Welfare Workforce" above.)

Adoption Opportunities

The Adoption Opportunities program was established in 1978 (P.L. 95-266) and was most recently reauthorized in 2003 (P.L. 108-36, with CAPTA). No legislation to reauthorize this program has been introduced as of early February 2008, although the purposes of the bill are closely aligned with proposals made by H.R. 4198 and S. 2395 (see "Foster and Adoptive Parent Recruitment," above). Further, the Administration has requested a "straightline reauthorization" of the program with funding authority of "such sums as may be appropriated."[162] Funding for Adoption Opportunities was authorized at $40 million for FY2004 and "such sums as may be necessary" in each of FY2005-FY2008. For FY2008, the program received an appropriation of $26.4 million (P.L. 110-161).

Funding provided for Adoption Opportunities is administered by HHS and is distributed via competitive grants or contracts. Among other things, those competitive grants support a national adoption information clearinghouse,[163] a national resource center on special needs adoption,[164] and a national internet photo listing of children seeking adoption.[165] These entities also provide training and technical assistance related to adoption and recruitment of families who want to adopt. Finally, other competitive grants are made to conduct research or provide services related

[161] See U.S. Congress, House of Representatives, Committee on Education and Labor, Stop Child Abuse in Residential Programs for Teens Act of 2008, (H.Rept. 110-669), May 22, 2008.

[162] ACF *FY2009 Budget Justifications*, pp. D-80-D-83.

[163] The adoption clearinghouse is now maintained under the umbrella of the Child Welfare Information Gateway. See http://www.childwelfare.gov.

[164] See http://www.nrcadoption.org.

[165] See http://www.AdoptUSKids.org.

to reducing barriers to adoption; provide services to adoptive families; or for other related purposes.

Abandoned Infants Assistance

The Abandoned Infants Assistance program was created in 1988 (P.L. 100-505) in response to concerns about "boarder babies." The context for this concern included increased cocaine/crack use by pregnant women, as well as the spread of HIV among infants whose parents abused drugs intravenously. "Boarder babies" were understood as infants and young children who were medically ready to be discharged from a hospital but for whom the parent (due to drug or other reasons) was unable to care and had thus simply abandoned in the hospital.[166] The program was most recently reauthorized in 2003 (P.L. 108-36, with CAPTA), when funding was authorized at $45 million for FY2004 and "such sums as may be necessary" for each of FY2005 through FY2008. The program received an appropriation of $11.6 million in FY2008 (P.L. 110-161). No legislation to reauthorize this program has been introduced as of early February 2008, but the Administration has requested a "straightline reauthorization" of the program with funding authority of "such sums as may be appropriated."[167]

Funds are administered by HHS and are distributed under this program through competitive grants or contracts to public and private communities and entities for the development, implementation, and operation of projects that aim to prevent abandonment of infants and young children who have been exposed to HIV/AIDS and drugs; identify and address the needs of abandoned infants (especially those born with AIDS, exposed to drugs, or those with life-threatening illnesses or special medical needs), including assisting them in living with their biological parents, recruiting and retaining foster families who can care for such abandoned infants, or providing residential care programs if neither the child's biological parent nor a foster family can care for the child; and recruiting and training health and social services personnel to work with those caring for these abandoned infants. Finally, some grant funding supports the National Abandoned Infants Assistance Resource Center, which provides training and technical assistance related to planning and development of projects funded under this program.[168]

Children's Advocacy Centers

Children's Advocacy Centers (CACs) are intended to coordinate a multi-disciplinary response to child abuse (e.g. law enforcement, social service, medical, mental health) in a manner that ensures child abuse victims (and any non-offending family members) receive the support services they need and do not experience the investigation of child abuse as an added trauma. Funding authority for this program expired with FY2005, although Congress has continued to appropriate funds for this purpose. As of early February 2008, no legislation to reauthorize funds for this program has been introduced. The Administration has requested that funding and program authority for this and other programs authorized by the Victims of Child Abuse Act, the Missing Children's Assistance Act, the Juvenile Justice Delinquency and Prevention Act, and other acts be combined into a single "Child Safety and Juvenile Justice" program. Funds would be distributed

[166] These babies are a distinct population from those who are left in a public place (or with a safe haven provider), although both are sometimes described as abandoned. See National Abandoned Infants Assistance Resource Center, "Boarder Babies, Abandoned Infants, and Discarded Infants," author: Berkeley, CA, December 2005; see http://aia.berkeley.edu/media/pdf/abandoned_infant_fact_sheet_2005.pdf.

[167] ACF *FY2009 Budget Justifications*, pp. D-84-D-86.

[168] See http://aia.berkeley.edu.

on competitive basis to "assist state and local governments in addressing multiple child safety and juvenile justice needs."[169]

Funding to support local and regional advocacy centers (and for related training and technical assistance) is administered by the Department of Justice and was first authorized under the Victims of Child Abuse Act of 1990 (Title II of P.L. 101-647, as amended). The bulk of CAC funding is typically awarded to the National Children's Alliance (a member organization for local CACs), which makes subgrants to support local CACs.[170] The remaining funds support regional CACs, as well as training and technical assistance. The CAC program was last amended in 2003 (P.L. 108-21) when authority to appropriate funds was provided for the program through FY2005. Despite the expiration of this authorization, Congress has continued to provide funding for the program in each year, and in FY2008, it provided $16.9 million (P.L. 110-161).

Training for Judicial Personnel and Practitioners

The Victims of Child Abuse Act of 1990 (Title II of P.L. 101-647, as amended) also authorized funding to provide expanded technical assistance and training to judicial personnel and attorneys to improve the judicial system's handling of child abuse and neglect cases "with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement." Funding authority for this program expired with FY2005, although Congress has continued to appropriate funds for this purpose. As of early February 2008, no legislation to reauthorize funds for this program has been introduced.[171]

Funds appropriated under this authority are administered by the Department of Justice and have been used to support the "Model Courts Initiative" of the National Council for Juvenile and Family Court Judges.[172] As part of the 2000 law that reauthorized the Violence Against Women Act (P.L. 106-386), funding for this purpose of the Victims of Child Abuse Act was extended through FY2005. Despite the expiration of funding authority Congress has continued to provide funds under this program authority; for FY2008, it appropriated $2.4 million (P.L. 110-161).

Adoption Awareness

Adoption Awareness funds are provided to support both infant and "special needs" adoptions. This program authority is included in the Public Health Service Act, and the program and its funding ("such sums as may be necessary") was initially authorized by the Children's Health Act of 2000 (P.L. 106-310). Funding authority expired with FY2005, but Congress has continued to appropriate funds; for FY2008, it provided $12.4 million for Adoption Awareness (P.L. 110-161). These funds are administered by HHS, which continues to request funding for the programs authorized by Adoption Awareness.[173]

Infant adoption awareness funds (expected to be $9.6 million in FY2008) are distributed via competitive grants or contracts to support development and implementation of programs that train

[169] U.S. Department of Justice, Office of Justice Programs, *FY2009 Performance Budget*, February 2008, pp. 101-102.

[170] The website of the National Children's Alliance is http://www.nca-online.org/pages/page.asp?page_id=4028.

[171] However, provisions included in the omnibus crime prevention and control bill, S. 2237, would amend the Juvenile Justice and Delinquency Prevention Act to authorize a new program that appears similar to what is currently funded under the Victims of Child Abuse Act authority. See Section 2604 of S. 2237.

[172] For more information, see the National Council for Juvenile and Family Court Judges (NCJFCJ) website on Model Courts http://www.ncjfcj.org/content/blogcategory/117/156.

[173] ACF *FY2009* Budget Justifications, pp. D-97-D-99.

staff in eligible health centers to "provide adoption information and referrals to pregnant women on an equal basis with all other courses of action included in non-directive counseling to pregnant women." Special needs adoption awareness funds (expected to be $2.9 million in FY2008) are distributed via competitive grants to nonprofit entities to plan, develop, and carry out a national campaign to provide information to the public regarding the adoption of children with special needs. This campaign can include public service announcements on television, radio, or billboards.

Appendix A. Other Financing Proposals

Both the Administration, which first proposed the President's Child Welfare Option in February 2003, and the private Pew Commission on Children in Foster Care, which first offered its financing reform recommendations in May 2004, have offered broad proposals to change the way federal dedicated child welfare funds are distributed to states.

President's Child Welfare Option

The President's FY2009 budget proposes to offer states an alternative method for financing their foster care programs and other child welfare services. (This proposal was first included in the President's FY2003 budget and has been in every successive one as well.) According to FY2009 budget documents, the proposal is intended to be "budget neutral" and would give states the option to receive their foster care funding as a flexible grant over five years to support a continuum of services for families in crisis and children at risk." [174]

No specific legislative language to enact this plan has been introduced. However, the Administration has indicated that under this "flexible funding" plan, states could choose to receive their foster care funding as an annual pre-established grant amount (rather than as open-ended reimbursement of eligible expenses) for a period of five years. The amount of a state's annual grant funding during those years would be based on the funding that the state would be assumed to receive under the Title IV-E foster care program (as it exists in current law) over those same five years. States could use the grant funds for the full range of child welfare services, including foster care payments, prevention activities, permanency efforts, case management, administrative activities, training for child welfare staff, and other similar child welfare activities. Further, the funds could be spent on any child without regard to whether this child met the Title IV-E foster care eligibility criteria that are part of the AFDC-program link. (The Administration's proposals would not make any changes to the current Title IV-E Adoption Assistance program, which also includes this eligibility link.)

At the same time, the FY2009 budget documents note that states would be required to uphold "child safety protections outlined in the Adoption and Safe Families Act," agree to maintain existing levels of state investment in child welfare programs, and continue to participate in the HHS-administered Child and Family Services Reviews (to ensure compliance with federal child welfare policy). States experiencing a "severe foster care crisis" would, under certain circumstances, be able to tap TANF contingency funds to meet this unanticipated need.[175] Finally, the President's proposal includes a $30 million set-aside to be available for Indian tribes (tribes are currently not eligible to directly receive federal foster care funds under Title IV-E of the

[174] U.S. Department of Health and Human Services (HHS), *FY2009 Budget in Brief*, p. 86.

[175] The state of Florida (beginning in October 2006) and the California counties of Los Angeles and Alameda (beginning in July 2007) have implemented five-year demonstration projects (under an HHS waiver of Title IV-E rules) that permit them to receive a pre-established grant of funds under Title IV-E and to use those funds on behalf of any child, and for generally any purpose now authorized under Title IV-E or Title IV-B. The authority for HHS to waive Title IV-E rules for demonstration projects was provided in Section 1130 of the Social Security Act but expired as of March 30, 2006. To read more about the demonstration projects in California and Florida, see *Profiles of Federal Child Welfare Waiver Demonstration Projects*, May 2007. Available at http://www.acf.dhhs.gov/programs/cb/programs_fund/cwwaiver/2007/profiles_demo2007.htm.

Social Security Act) and a one-third of 1% set-aside for monitoring and technical assistance of state foster care programs.[176]

Recommendations of the Pew Commission

In May 2004, the Pew Commission on Children in Foster Care, co-chaired by former Representatives Gray and Frenzel, released a set of recommendations to restructure the current federal child welfare system.[177] Those recommendations have guided some aspects of introduced bills (in this and prior Congresses) and they remain a part of the child welfare financing debate.

De-Link Payments

The Commission recommended removing the income eligibility requirements for Title IV-E adoption assistance and foster care maintenance payments—now in law as part of the link between the Title IV-E program and the prior law AFDC eligibility requirements (discussed above)—and continuing mandatory and "open-ended" funding for the program. To reduce the federal cost of this expanded eligibility, it further recommended that the share of each foster care maintenance or adoption payment reimbursed by the federal government be reduced. Those reimbursement rates now range from 50% to 83%, depending on the state's per capita income, and the Pew Commission proposed an even 35% reduction (i.e. new funding matching rates of roughly 32.5% to 54.0%). To ensure that the lower reimbursement rates would not result in some states receiving less federal support for adoption subsidies and foster care maintenance payments than under current law, the Commission also recommended a three-year adjustment period during which states would at a minimum receive the same level of funding that would have been available to them before the adjustment of the program eligibility criteria and the reimbursement rate. Thus, the Commission believes this de-link proposal would be cost neutral to both the federal and state governments.[178]

Service, Case Management, and Training Funds

The Commission further recommended a single "Safe Children, Strong Families" grant program be created to provide capped, mandatory funding that states would not be able to use for foster

[176] Separately, and with regard to the District of Columbia, the Administration's FY2009 budget again proposes to "bring the match rate for title IV-E of the Social Security Act in line with the Medicaid program as it currently is for all states." This would set the federal reimbursement rate for foster care maintenance payments and adoption assistance payments at 70% (instead of 50%) in the District. See *ACF FY2009 Budget Justifications,* p. G-11.

[177] Pew Commission on Children in Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care,* May 2004. The full report is available at http://pewfostercare.org/research/docs/FinalReport.pdf. The Commission also proposed a set of recommendations intended to improve the interaction of courts with child welfare agencies and to improve the work of courts on behalf of children. A number of these recommendations were enacted as part of the Deficit Reduction Act of 2005 (P.L. 109-171).

[178] The Commission proposed that states receiving more funding under the proposal's expanded eligibility (and despite the decreased reimbursement rates) would have some of the funding diverted to ensure that no state received less federal support. Alternatively, the Commission made two other proposals that would have accomplished a de-link and maintained open-ended funding but that they expected would cost the federal government some additional dollars. The first alternative would have permitted all states to keep any additional funding they received under the proposal and would also have permitted states who lost money under the proposal to file supplemental claims (during a three-year adjustment period) to be paid by the federal government. The second alternative would de-link the program over a roughly 17-year time frame. In the first year, the Title IV-E income eligibility limit would be set at 50% of the federal poverty level and would rise 10 percentage points each year. By year 16 of the proposal's implementation, the income eligibility limit would be 200% of poverty and in year 17, all income eligibility criteria would be eliminated. Further, some of the federal cost of this de-link would be recouped by a phased-in reduction of the reimbursement rates, totaling 14 percentage points (i.e. reimbursement range of 35%-69%) by year 17.

care maintenance payments but that they could spend on virtually any other child welfare purpose, including providing services to children and their families, casework support for children, and training of child welfare, court and other relevant personnel.

The Commission recommended that this grant be created by combining the capped funding now available to states under Title IV-B of the Social Security Act (Child Welfare Services and Promoting Safe and Stable Families) with some of the open-ended funding now available under Title IV-E for states to conduct specified administrative and child placement activities. The initial grant funding level would be based on the total amount of current funding for each of these funding streams (estimated at about $3.7 billion at the time of the proposal) enhanced by $200 million in the first year (for a total of about $3.9 billion). The Commission proposed that states would receive a share of this money based on the share of the total pot of money they receive under current law. Further, the Commission proposed that this grant should be indexed so that each state's funding would annually grow by 2% plus the inflation rate (Consumer Price Index).

Under current law, the federal government provides between 50% and 75% of the total eligible program costs for the programs that would be rolled into the Safe Children and Strong Families grant. The Commission recommended adjusting this rate to create a single federal matching rate that would ensure no state had to provide more of its own funding to receive the same level of federal support. It estimated that this federal share (matching rate) would be about 68%. Finally, with regard to other funding currently provided under Title IV-E, the Commission recommended that states continue to be able to claim open-ended reimbursement for the development, maintenance, and operation of a State Automated Child Welfare Information System (SACWIS) at the current federal reimbursement rate of 50%.

Other Pew Financing Recommendations

Among other recommendations, some of which had previously been proposed in Congress, the Commission recommended that assistance payments for children who exit foster care to a legal guardianship be reimbursed by the federal government on an open-ended basis (under Title IV-E), proposed that Indian tribes be granted the ability to make direct claims for federal reimbursement under the Title IV-E programs, and sought to remove current limits set on the amount of Title IV-E funding that may be accessed by the territories.

It further proposed that current law adoption incentive payments be revamped to permit states that successfully found permanent homes for children (whether via family reunification, adoption, or guardianship) to receive these bonus funds; sought provisions that would permit states to transfer ("re-invest") certain "unspent" Title IV-E foster care dollars in the Safe Children, Strong Families Grant; recommended payment of an enhanced federal matching rate for the Safe Children, Strong Families Grant—if a state showed increased competence and reduced caseloads among its child welfare workforce; proposed investment of at least some of a state's assessed penalties for noncompliance with federal child welfare policy in that state's Program Improvement Plan (with this spending directed by HHS) and, finally, recommended continued reservation of funds for research, evaluation, and sharing of best practices.[179]

[179] The Commission also supported continued authority for HHS to waive certain requirements under Title IV-E and Title IV-B for the purpose of demonstrating improved ways of operating child welfare programs. This authority was in place at the time the proposals were made but subsequently expired on March 31, 2006.

The Partnership Recommendations

In May 2007, eight organizations representing public human services administrators and employees, as well as private child welfare service providers, researchers, and advocates, formed a partnership to propose child welfare reform. Stating that the "federal-state partnership to help children and families must be renewed and strengthened," this partnership produced a list of reform proposals—many of which are related to federal financing. The eight organizations included in the partnership are the American Federation of State, County and Municipal Employees (AFSCME), American Public Human Services Association (APHSA), Catholic Charities USA, Center for Law and Social Policy (CLASP), Child Welfare League of America (CWLA), Children's Defense Fund, National Child Abuse Coalition, and Voices for America's Children. The partnership proposals are not provided in legislative form. However some of the proposals have been addressed in legislation introduced in this Congress and described in the body of the report. A brief review of the proposals is given below.[180]

The partnership seeks to "guarantee services, supports and safe homes for *every child* who is at-risk of being or has been abused or neglected." It proposes to do this by amending Title IV-E of the Social Security Act to permit states to use those funds on a broader range of purposes and "without converting any of the Title IV-E to a block grant." The partnership calls for expanded federal eligibility for Title IV-E foster care through elimination of the income eligibility criteria (de-link from AFDC). (It does not propose a reduction in reimbursement rates or another mechanism that would limit increased cost from this change to the federal government.) And it further proposes that any state that safely reduces its foster care caseload should be able to "reinvest" the federal Title IV-E funds, which would otherwise be lost to the state, in services and supports that prevent abuse or neglect. The partnership would further stipulate that any savings in state spending that might accrue because of these changes must be similarly reinvested.

The partnership further proposes that states should be able to use Title IV-E funds to (1) provide post-permanency services to children reunited with their parents, placed permanently with a relative, or adopted, and to help older youth who age out of foster care successfully transition to adulthood and (2) provide subsidized guardianship for children placed with legal guardians (when neither reuniting with parents nor adoption is appropriate). The proposal also calls for direct tribal access to Title IV-E funding and suggests that states be permitted to establish relative-specific licensing standards, provided those standards contain safety protections and criminal background checks.

For most states, the partnership would increase the federal matching rate available to states under the Title IV-E program for casework activities—including assessment of child and family needs, development and refinement of permanency plans, recruitment, licensing and supervision of foster and pre-adoptive parents. Under current law, states may seek federal reimbursement of 50% of the cost of such caseworker activities (provided they are incurred on behalf of Title IV-E eligible children), which is the general reimbursement rate for Title IV-E program "administrative" costs. The partnership proposes to change this matching rate for caseworker activities under the Title IV-E program to the state's Federal Medical Assistance Percentage (FMAP), which may range from 50% to 83% with states that have higher per capita income receiving lower rates and vice versa.[181] Further, the partnership proposes to permit states to use

[180] To read the partnership's proposals, see "Changes Needed in Federal Child Welfare Law to Better Protect Children and Ensure Them Nurturing Families," May 2007, available at http://www.cwla.org/advocacy/nurturingfamilies.pdf.

[181] A state's FMAP may vary each year based on economic conditions. For FY2008, 19 states, including DC, had a Title IV-E FMAP reimbursement rate of 50%; the remaining states had reimbursement rates ranging from just under 52% to just over 76%. See *Federal Register,* November 30, 2006, pp. 69209-69211.

child welfare funds withdrawn (penalties) or disallowed by the federal government to conduct evaluations of promising approaches to achieve safety, permanency, and well-being for children and implement approaches that have been demonstrated to improve these outcomes for children.

The partnership further proposes to expand both the range of topics and the kind of workers for whom states may seek federal Title IV-E training support at the 75% reimbursement rate. Under current law, states may receive reimbursement of training costs at the 75% rate if the topic is related to administering the Title IV-E foster care or adoption assistance program, and only on behalf of public employees. Training topics that are specifically not eligible for Title IV-E reimbursement include those related to providing services, including training on how to conduct a child abuse and neglect investigation, or how to provide treatment or other services related to domestic violence, mental health issues, or substance abuse among children and families coming into contact with the child welfare agency.[182] The partnership proposes to permit federal Title IV-E reimbursement at the 75% matching rate for any training topic related to "ensuring safety, permanency and well-being for children," and further, it would permit states to make these claims on behalf of private child welfare agency workers, court personnel, and other social service agency workers (including those with expertise in health, mental health, substance abuse, and domestic violence related services).

Finally, the partnership proposes to "enhance accountability" by requiring states to report annually on funds spent on particular services and categories of services; the number of children and families served; the duration of the services; and the number of children and families who are unable to access a service for which they are referred. Five years after the enactment of these reforms, the partnership would call on the U.S. Government Accountability Office (GAO) to evaluate the effectiveness of the reforms as they relate to (1) enhancing preventive, permanence, and post-permanency services; (2) changes in foster care placements; (3) recruitment, retention, and workloads of child welfare workers; and (4) improved outcomes for children at-risk of entering, or who have entered, the child welfare system. Finally, to "increase the knowledge about outcomes for children," the partnership would permit states to submit additional state-level data during the Child and Family Services Review (CFSR) process.

[182] States that provide training on these topics may not claim reimbursement for that training under the Title IV-E program at either the 75% (training) rate or the 50% (general administration) rate. See *Child Welfare Policy Manual,* Section 8.1H, Question 11 (and Question 8).

Appendix B. Title IV-E Foster Care Eligibility Criteria

Table B-1. Eligibility Criteria

Judicial Determinations[a] (court orders)	**AFDC Requirements** (the "link" or lookback)	**Provider and Other Requirements**
1. Home of child was contrary to the welfare of the child. (This finding must be made as part of the same order that removes the child from home.) 2. State made reasonable efforts to prevent removal—or these efforts were not necessary. (This finding must be made no later than 60 days after child's removal.) 3. State is making reasonable efforts to finalize a permanent living situation for child. (This finding must be made within 12 months of child's entry to foster care and every 12 months thereafter while child remains in care.) [**Note:** If a child's parent voluntarily agrees to put the child in foster care—and, along with an agency representative, signs a valid voluntary placement agreement—"contrary to the welfare" and "reasonable efforts to prevent placement" findings are *not* required. However, in order for Title IV-E eligibility to continue, a judge must within 180 days of the foster care placement determine that the placement is in the child's best interest.]	Child must be under the age of 18 (or—if this option was in state's AFDC plan—under 19 if child is still in high school full-time or is in equivalent secondary education training program full time). Child must be deprived of parental support (due to at least one parent's continued absence from the home, death, or mental incapacity) OR because of the unemployment of the principal wage-earning parent. Child must be living in home of parent or other specified relative (at time of removal or within six months of the removal). Child must be defined as needy based on the income and resources of family he or she is removed from (i.e. the home that is found "contrary to welfare" of the child). The income limit is based on state "need standard" from AFDC program as it existed on July 16, 1996; resource limit is $10,000.	Child must be in the care and placement responsibility of state or another public agency with which state has an agreement. Child must be placed in an eligible facility (includes foster family homes and public institutions caring for not more than 25 children or private institutions of any size; does *not* include detention and certain other facilities). Child must be placed in a licensed facility or with a licensed provider. Foster family home provider must undergo criminal background check and must not have been convicted of certain crimes within certain time frames. (Effective in all states as of October 1, 2008, P.L. 109-248.) Foster family home provider and other adults in foster family household must undergo child abuse and neglect registry check.

Source: Table prepared by the Congressional Research Service (CRS) on the basis of P.L. 109-248 and U.S. Department of Health and Human Services (HHS), Children's Bureau, *Title IV-E Foster Care Eligibility On-site Review Instrument and Instructions,* March 2006 version.

a. Requirements shown are for all children whose removal occurred on or after March 27, 2000, which was the effective date of final rule implementing the Adoption and Safe Families Act (ASFA, P.L. 105-89). Slightly different judicial determination rules apply for children removed before that effective date.

Author Information

Emilie Stoltzfus
Specialist in Social Policy

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