

# Voice for Adoption

SPEAKING OUT FOR OUR NATION'S WAITING CHILDREN



## President Signs Child Welfare Bill into Law

Members of Congress acted quickly to introduce and pass, the Child and Family Services Improvement and Innovation Act (H.R. 2883/Public Law 112-34). The bill was both bipartisan and bicameral. Legislators demonstrated that this legislation was a priority; the bill was introduced on September 12<sup>th</sup>, 2011, it passed in both chambers of Congress by September 22<sup>nd</sup> and President Obama signed the bill on September 30<sup>th</sup>. The champions of H.R. 2883 are House Ways and Means, Subcommittee on Human Resources, Chairman Geoff Davis (R-KY) and Ranking Member Lloyd Doggett (D-TX) and Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT).

The bill reauthorized two federal child welfare programs that were set to expire on September 30<sup>th</sup>, 2011. The Promoting Safe and Stable Families (PSSF, also known as Title IV-B, part 2 of the Social Security Act) and Child Welfare Services program (CWS, also known as Title IV-B, part 1) have been extended to Fiscal-Year 2016. The bill includes both discretionary spending (funds that need to be approved by Congress annually) and mandatory spending (funds that are written into law). The legislation also renewed the Court Improvement Program (CIP) through Fiscal-Year 2016. In addition to the extension of these programs the legislation reauthorized authority to the Department of Health and Human Services (HHS) to re-establish child welfare waivers through Fiscal-Year 2014.

### Reauthorization Provisions

The funding for the Child Welfare Services and Promoting Safe and Stable Families programs will remain at current funding levels. The CWS program was authorized at \$325 million per year in discretionary funds and the PSSF program was authorized at \$345 million per year in mandatory funds and \$200 million per year in discretionary dollars. The CWS program grants States and Tribes funds to prevent children from entering foster care and provides funding for services to keep families safely together. The PSSF program supports a variety of services to ensure permanency for children either through reunification, adoption or other permanent living arrangements. States are able to spend PSSF funds in four categories including: family support, family preservation, time-limited family reunification and adoption promotion and support. The Court Improvement Program was initially created in 1993; it provides federal funds to States and Tribes for grants to fund court systems to conduct assessments of their foster care and adoption laws and judicial processes, and to develop and implement plans for improvement. The legislation ends the Mentoring Children of Prisoners program, which did not receive any funds appropriated by Congress in Fiscal-Year 2011, but adds mentoring as a purpose for which PSSF program dollars may be spent.

### State Waiver Authority Provision

HHS has authority to grant up to 10 new state waivers per year, in 2012-2014. State waivers (also known as demonstration projects) were first introduced in 1994 as a strategy to allow States to be innovative in child welfare practice and service delivery. Waivers give States more flexibility in the use of federal foster care dollars and are granted to states that can demonstrate a comprehensive plan for the use of alternative services

that promote permanency and safety of children in foster care; these are funds that would otherwise be strictly spent on foster care maintenance. In the past States have used child welfare waivers to fund services to support: subsidized guardianship/kinship placement, adoption and post-permanency services, services to expedite reunification, and enhanced training for child welfare staff, among others. Waivers have been able to demonstrate things that work well in serving children involved with the child welfare system. The most notable demonstration project was likely, subsidized kinship-guardianship placements. The findings from previous projects led to national reform efforts, which now include the federally funded guardianship assistance program in law, implemented in the Fostering Connections to Success and Increasing Adoptions Act (Public Law 110-351).

In order for a State to qualify for a waiver through HHS, they must identify one or more of the following goals: increase permanency by reducing time in foster care, increase positive outcomes for children and families, prevent child abuse and neglect and re-entry to foster care. The State will need to provide HHS with a narrative description that includes the State's capacity to effectively carry out their intended goals. As a condition of the waiver, the State must also actively make other child welfare policy improvements, including the implementation of at least two of the following ten policies:

- (1) establish a bill of rights for youth in foster care,
- (2) create a plan to meet the health and mental health needs of foster youth,
- (3) adopt the subsidized kinship guardianship program,
- (4) provide foster care support for youth up to age 21,
- (5) develop a plan for the appropriate use of congregate care,
- (6) increase sibling placements in adoptive, foster care or kinship settings
- (7) develop a plan to improve the recruitment and retention of high quality foster homes,
- (8) establish procedures to help youth who are transitioning out of foster care,
- (9) develop a plan to help older youth safely reconnect with biological family members,
- (10) establish more programs that prevent foster care and provide permanency such as, family finding, kinship navigator programs, family counseling or related programs.

States that receive waiver authority will be under the supervision of HHS and will be required to provide periodic reports and evaluation of their identified demonstration project. Some of the ten items are policy *options* for states, while all represent good child welfare practice, at least one must be newly implemented after the waiver is approved (the state applying *may* be in the process of implementing one of the listed policies, but at least one of the two chosen policies needs to be newly implemented after the waiver is approved). This is intended to encourage States to be more aggressive in their child welfare reforms.

## **Child Welfare Improvement Provisions**

Through Congressional hearings leading up to the introduction of this legislation, members of Congress were able to hear from key stakeholders about a variety of areas where policies could be improved to better serve children in the child welfare system. The following are improvement provisions that are now required by each State to either report in their state plans to HHS or assist foster youth with directly:

- Developmental needs of young children: Description of activities to address the developmental needs of very young children (5 years old and younger), to reduce length of time without a permanent family placement and activities to address their developmental needs.
- Emotional trauma: States must explain how they will minimize emotional trauma associated with child maltreatment and removing a child from their home.
- Health oversight: States must track the use of prescription medications and develop protocols for the



appropriate use and monitoring of these medications.

- Tracking child maltreatment deaths: States must describe data sources used to report child maltreatment deaths and explain how they will incorporate missing data.
- Identity theft prevention: States must provide foster youth who reach age 16 a copy of their credit report each year in state care until that the youth is discharged and the State must assist with interpreting and resolving any inaccuracies in the report.
- Broadens substance abuse grants: Previous priority for methamphetamine specific grants, regional grants in place to help parents with substance abuse issues, have been broadened to focus on a variety of substances abuse issues.

## Fostering Connections Law Provisions

The legislation includes two important provisions that clarify changes made in the Fostering Connections to Success law that was passed in 2008. Below is a description and explanation of these two provisions:

- (1.) As a result of the Fostering Connections Act States were required to maintain school stability for children in foster care, or move to a different school if it was in the best interest of the child, and immediate enrollment and timely access to school records are a requirement. Following enactment and guidance from HHS, interpretation was that this right applied only to the child's first out of home placement. The new law clarifies that these educational stability rights apply to *each* placement in foster care.
- (2.) The Fostering Connections Act expanded federal Adoption Assistance funds that allow States to acquire state savings overtime, which are to be reinvested into child welfare services. These savings are known as Maintenance-Of-Effort (MOE). Through previous guidance issued by HHS, States were given complete flexibility in how they would track MOE savings. As a result of the recently passed law States are now required to document how these savings are spent, including on post-adoption services.

## Reporting Provisions

The Act also includes various reporting changes. HHS is required to submit an annual spending report to Congress, by September 30<sup>th</sup> of each year, about the use of PSSF spending (including tables that breakdown state and national spending totals and include planned and actual spending by each service category). HHS must also post the annual report on the HHS website for transparency to the public. The bill requires HHS to evaluate the effectiveness of substance abuse grants that help parents with these challenges and directs the Government Accountability Office (GAO) to produce a report that investigates duplication in child welfare programs. The GAO report must also include information on caseworker supports, length of time families wait to receive substance abuse or preventative services and the effects of delay in receiving such services. Lastly, caseworker visitation requirements were amended to more accurately report the percentage of monthly visits made in the year. States are still directed to complete at least 90 percent expected visitation (in Fiscal-Year 2015, this will rise to 95 percent requirement) and now requires that at least 50 percent of all caseworker visits occur in the home where the child is living.

A well-deserved applause goes to the champions of this legislation and to the federal policy makers that voted in favor of passing this bill, for taking steps to ensure our nations children involved with the child welfare system are a priority. To learn more about this bill visit: [www.thomas.gov](http://www.thomas.gov)

