



## Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980)

*On September 29, President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183/H.R. 4980). The bipartisan bill passed the House on July 23 and passed the Senate by unanimous consent on September 18, just hours before the Senate recessed for the campaign season. This new law takes important steps forward in protecting and preventing children and youth in foster care from becoming victims of sex trafficking and makes many important improvements to the child welfare system that will help improve outcomes for children and youth in foster care. This bill was cosponsored by Representatives Dave Camp (R-MI) and Sandy Levin (D-MI), Senators Ron Wyden (D-OR) and Orrin Hatch (R-UT), and Representatives Dave Reichert (R-WA) and Lloyd Doggett (D-TX).*

### TITLE I – PROTECTING CHILDREN AND YOUTH AT RISK OF SEX TRAFFICKING

#### *Identifying and Protecting Children and Youth at Risk of Sex Trafficking*

- **Identifying, Documenting, and Determining Services for Children and Youth at Risk of Sex Trafficking (Sec. 101).** The state agency must develop, in consultation with organizations experienced in dealing with at risk youth, policies and procedures for identifying, documenting, and determining appropriate services for children who the state has reasonable cause to believe are victims, or are at risk of becoming a victim, of sex trafficking or a severe form of trafficking in persons (as defined under the Trafficking Victims Protection Act of 2000). This requirement only applies to children for whom the state has responsibility for placement, care, or supervision, including those who were not removed from the home, children from foster care who have run away (under age 18, or under age 21 if the state extended foster care), and those receiving services under the Chaffee program. However, states have the option to develop these policies and procedures for young adults under the age of 26, regardless of whether they were involved in foster care.
- **Reporting Instances of Sex Trafficking (Sec. 102).** No later than two years after enactment, states must immediately report (within 24 hours) children under the responsibility of the state who are identified as sex trafficking victims to law enforcement. No later than three years after enactment, and annually thereafter, states must report the total number of youth sex trafficking victims to the Secretary of Health and Human Services (HHS). No later than four years after enactment, and annually thereafter, the Secretary must report this number to Congress and make it available to the public on the HHS website.
- **Including Sex Trafficking Data in the Adoption and Foster Care Analysis and Reporting System (AFCARS) (Sec. 103).** Amends AFCARS to require states to submit data on the annual number of children in foster care who are identified as victims of sex trafficking including the number of children who were victims before entering foster care and those who became victims while in foster care.
- **Locating and Responding to Children who Run Away from Foster Care (Sec. 104).** No later than one year after enactment, states must develop and implement plans to expeditiously locate any

child missing from foster care; determine the primary factors that contribute to the child's running away or being absent from foster care; determine the child's experiences while absent from foster care, including screening whether the child was a victim of sex trafficking; and related information required by HHS. No later than two years after enactment, states must within 24 hours of receiving information on missing or abducted children 1) report to the law enforcement authorities so the information can be entered into the National Crime Information Center (NCIC) database, and 2) report the same information to the National Center for Missing and Exploited Children (NCMEC).

- **Increasing Information on Children in Foster Care to Prevent Sex Trafficking (Sec. 105).** No later than two years after enactment, using the data reported under AFCARS, HHS must report to Congress on children who run away from foster care and their risk of becoming victims of sex trafficking. These reports should include information on characteristics of the children who run away, potential factors associated with children running away from care, information on children's experiences while absent from care, and trends in the number of runaways in each fiscal year. The report must also summarize the information on state efforts to provide specialized services, foster family homes, child care institutions, or other placement options to child victims of sex trafficking, and information on state efforts to ensure children in foster care form and maintain long-lasting connections to caring adults.

### *Improving Opportunities for Children in Foster Care and Supporting Permanency*

- **Supporting Normalcy for Children in Foster Care (Sec. 111).** Requires states to implement a "reasonable and prudent parent standard" for decisions made by a foster parent or a designated official for a child care institution. Such a standard would allow them to make parental decisions that maintain the health, safety, and best interest of the child and also decisions about the child's participation in extracurricular, enrichment, cultural and social activities. Caregivers would have to be trained on the reasonable and prudent parent standard, specifically around the child's participating in age or developmental appropriate activities. HHS will provide technical assistance on best practices for assisting foster parents to apply the reasonable and prudent parent standard in a way that protects the child while also allowing them to experience normalcy, and also takes into consideration the concerns of the biological parents related to participation in activities (although these concerns won't necessarily determine the participation of the child in activities). This provision also ensures that liability policies will ensure appropriate liability for caregivers who approve a child's participation in an activity in accordance with the reasonable and prudent parent standard. This section also provides for an additional \$3 million (beginning in FY2020) that will be made available each year under the Title IV-E Independent Living program, whose purposes are expanded to include supporting participation in age-appropriate activities for youth who are likely to remain in foster care until age 18. This section will take effect one year after enactment unless otherwise specified; however delays are permitted if state legislation is required.
- **Improving Another Planned Permanent Living Arrangement as a Permanency Option (Sec. 112)** Eliminates Another Planned Permanent Living Arrangement (APPLA) as a permanency goal for children under the age of 16 and adds additional case plan and case review requirements for older youth with a permanency goal of APPLA. For children in foster care under the responsibility of an Indian tribe, these changes do not apply until three years after the enactment of this Act. At each permanency hearing, the state agency must document the intensive, ongoing and unsuccessful efforts for family placement, including efforts to locate biological family members using search technologies (including social media). At each permanency hearing the agency is required to ask the child about the child's desired permanency outcome, make a judicial determination explaining why

APPLA is still the best permanency plan and why it is not in the best interest of the child to be returned home, adopted, placed with a legal guardian, or placed with a fit and willing relative. At each permanency hearing the agency is also required to specify the steps the agency is taking to ensure the reasonable and prudent parent standard is being followed, and that the child has regular, ongoing opportunities to engage in age or developmental appropriate activities. This provision will take effect one year after enactment; however, delays are permitted if state legislation is required.

- **Empowering Foster Children Ages 14 and Older in the Development of their Own Case Plan and Transition Planning for a Successful Adulthood (Sec. 113).** Youth in foster care who are ages 14 and older are allowed to help develop their own case plan – and any revision to the plan – and are able to select up to two individuals who are not a foster parent or caseworker to be a part of their case planning team. The state may reject either individual if it is believed that they would not act in the best interest of the child. One of the individuals may be designated to be the child’s advisor and advocate with respect to the application of the reasonable and prudent parent standard. The case plan for all children ages 14 and older must also include a List of Rights document that describes their rights with respect to education, health, visitation, court participation, the documents outlined in Section 114 (see bullet below), staying safe, and avoiding exploitation. The youth must sign off that they received this document and that it was explained to them in an age appropriate manner. No later than two years after enactment, HHS must submit a report to Congress regarding the implementation of this provision and a description of best practices for administering this requirement. The amendments made by this section will take effect one year after enactment; however, delays are permitted if state legislation is required.
- **Ensuring Foster Children Aging Out of Care have a Birth Certificate, Social Security Card, Health Insurance Information, Medical Records, and a Driver’s License or Equivalent State Issued Identification Card (Sec. 114).** Requires that children exiting foster care because they have turned 18 (or under 21 if state extends foster care) and who have been in care for six months or longer receive an official or certified copy of their birth certificate, a social security card, health insurance information, medical records, and a driver’s license or identification card (if the child is eligible to receive such documents). This provision will take effect one year after enactment; however, delays are permitted if state legislation is required.
- **Information on Children in Foster Care in Annual Reports Using AFCARS data; Consultation (Sec. 115).** HHS must report state level data on children in foster care placed in child care institutions or other group care settings that are not foster family homes as part of the annual report on outcomes for children in foster care. These data must include the number of children in placements and their ages, the number and ages of children with a permanency goal of APPLA, the duration of the placements, the types of child care institutions used and the number of children residing in each such institution, any clinically diagnosed special needs of such children, services and treatment provided in these settings, and the number of children in foster care who are pregnant or parenting. HHS must also consult with states, child welfare organizations, and Members of Congress about other issues to be analyzed and reported on using data from AFCARS and the National Youth in Transition Database.

### **National Advisory Committee**

- **Establishing of a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (Sec. 121).** No later than two years after enactment, the Secretary of HHS will appoint all members of the National Advisory Committee, of which at least one member must be a

former sex trafficking victim, two members must be Governors, one member must be a Democrat, and one member must be a Republican. The Committee will have 21 members who will advise the Secretary and Attorney General on policies to improve the nation's response to domestic sex trafficking as well as policies concerning the cooperation between local, state, and federal efforts to address the problem. Within two years after the establishment of the Committee, it must develop two tiers of policy recommendations: the first tier for states that have not yet addressed sex trafficking and the second tier for states that have already begun to address these issues. The Committee must inform states on a quarterly basis about best practices for addressing sex trafficking and evaluate state implementation of these recommendations. Within three years after the establishment of the Committee, it must submit an interim report on state implementation to the Secretary, Attorney General, HHS, Department of Justice, Senate Finance Committee, and House Ways and Means Committee. The Committee must meet at least twice a year and will terminate five years after establishment, although HHS can continue to update online state best practices, recommendations, and evaluation of state implementation.

## **TITLE II – IMPROVING ADOPTION INCENTIVES AND EXTENDING FAMILY CONNECTION GRANTS**

### ***Improving Adoption Incentive Payments***

- **Extending program through fiscal year 2016 (Sec. 201).** Reauthorizes for three years (FY2013-2015) the Adoption Incentive Program. Effective as if the bill was enacted on October 1, 2013.
- **Improving award structure (Sec. 202).** Makes structural changes to how the incentive payments are calculated. The current adoption incentive payment is determined by comparing the total number of children adopted in a given year to an established baseline number from fiscal year 2007. This is problematic because using an absolute number from a previous year as a baseline does not take into account the fluctuating number of children in foster care. This section changes the incentive payment so it is based on improvements in the rates of adoptions and guardianships. This section also changes the current incentive categories and the dollar amounts associated with each category; see below for a summary of the new categories and the new incentive payments:
  - **Foster Child Adoption Rate (\$5,000):** Increase in the rate of children adopted from foster care (the rate is determined by dividing the number of foster child adoptions finalized in a fiscal year by the number of children in foster care on the last day of the preceding fiscal year).
  - **Pre-adolescent Child Adoption and Guardianship Rate (\$7,500):** Increase in the rate of pre-adolescent (ages 9 through 13) foster child adoptions or guardianships (the rate is determined by dividing the number of pre-adolescent child adoptions and guardianships finalized in a fiscal year by the number of pre-adolescent children in foster care on the last day of the preceding fiscal year).
  - **Older Child Adoption and Guardianship Rate (\$10,000):** Increase in the rate of older (ages 14 and older) foster child adoptions or guardianships (the rate is determined by dividing the number of older child adoptions and legal guardianships finalized in a fiscal year by the number of older children in foster care on the last day of the preceding fiscal year).
  - **Foster Child Guardianship Rate (\$4,000):** Increase in the rate of children exiting foster care into guardianship (the rate is determined by dividing the number of guardianships finalized in a fiscal year by the number of children in foster care on the last day of the preceding fiscal year).

Awards are per placement in each category above the State's base rate, which is defined as either the State's rate in the prior year or the average of the three prior years(whichever is lower).

Provides a transition period in FY2014 before the new incentive structure would be fully implemented. This means a state in FY2014 would receive an incentive amount that was equal to the sum of half of what it would have received under the old incentive structure in current law (including award categories, baseline numbers, and award amounts) and half of the amount that it would receive under the new incentive structure.

This section also creates an increased incentive for "timely adoptions." If the funds appropriated for the four incentive categories are not fully spent or allocated, HHS will provide an award to states for timely adoptions. A state is considered for a "timely adoption" award if the average length of stay in foster care before a finalized adoption is less than 24 months. The award amount is based on the pool of states who are determined to have timely adoptions divided by the number of timely adoption awarded to states.

- **Renaming of program (Sec. 203).** Renames the "Adoption Incentive Payments" program to "Adoption and Legal Guardianship Incentive Payments." Effective October 1, 2014.
- **Directing use of incentive payments (Sec. 204).** Clarifies that states must use the adoption and guardianship incentive payments to supplement – not supplant – other funds (federal or non-federal) already being used for services under Title IV-E or IV-B. Effective upon enactment.
- **Increasing period for which incentive payments are available for expenditure (Sec. 205).** Increases the time that the incentive payments remain available for states to use from 24-months to 36 months. Effective as if the bill was enacted on October 1, 2013.
- **Reporting on calculation and use of savings resulting from the phase-out of eligibility requirements for adoption assistance; requirement to spend 30 percent of savings on certain services (Sec. 206).** Requires states to calculate and report on the savings resulting from the Title IV-E adoption assistance de-link and to report on how the savings were used under Title IV-B. The reports will be made available to the public. States are also required to report on the methodology used to calculate these savings. The bill further requires that states spend no less than 30 percent of any such savings for post-adoption and post-guardianship services and for services to support and sustain positive permanent outcomes for children who might otherwise enter foster care, with at least 2/3 of this 30 percent spent on post-adoption and post-guardianship services. Any savings should be used to supplement, and not supplant, services under IV-B and IV-E. Effective October 1, 2014.
- **Preserving eligibility for kinship guardianship assistance payments with a successor guardian (Sec. 207).** Under current law, a child who is eligible and receiving Title IV-E Guardianship Assistance would lose eligibility for this assistance in the event that their current guardian passed away or was otherwise unable to care for them. This provision would ensure that children can continue to be cared for by another legal guardian who is named in the kinship guardianship assistance agreement (including an amendment to the agreement) if their relative guardian dies or is otherwise unable to care for the child. Effective upon enactment.
- **Collecting data collection on adoption and legal guardianship disruption and dissolution (Sec. 208).** Requires HHS to release regulations on the collection and analysis of information on children

who re-enter foster care after being placed in adoption or guardianship. States would be required to collect and report data on the number of children who re-enter care after a finalized adoption or guardianship, prior length of adoption/guardianship, age when they left care and when they re-entered, the type of agency involved in the exit, and other factors necessary to better understand the re-entry. Effective upon enactment.

- **Encouraging the placement of children in foster care with siblings (Sec. 209).** Adds clarifying language that all parents of siblings to the child (where the parent has legal custody of the sibling) also be identified and notified within 30 days after the removal of a child from the custody of the parent(s). This includes individuals who would have been considered siblings if not for the termination or other disruption of parental rights. Nothing in this section shall be construed as subordinating the rights of foster or adoptive parents of a child to the rights of the parents of a sibling of that child. Effective upon enactment, but a delayed effective date is permitted if state legislation is required.

### ***Extending the Family Connection Grant Program***

- **Extending the Family Connection Grant program (Sec. 221).** Extends the annual mandatory funding for the Family Connection Grant program through fiscal year 2014 at the current authorization of \$15 million. The Family Connection Grant program was established in the Fostering Connections to Success and Increasing Adoptions Act of 2008 and is intended to connect children to relatives by funding a number of activities that help support families. This section removes the provision in current law that stipulates that no less than \$5 million of the Family Connection Grants funding must be used to support kinship navigator programs. It makes institutions of higher education an eligible entity for matching grants.

## **TITLE III – IMPROVING INTERNATIONAL CHILD SUPPORT RECOVERY**

- **Improving International Child Support Recovery (Sections 301-306).** Authorizes access to the Federal Parent Locator Service by an entity designated as a Central Authority for child support enforcement in a foreign reciprocating country, so that such countries will be notified of the state of residence of individuals sought for child support. Provides Tribal governments access to the Federal Parent Locator Service. The Department of Health and Human Services must design data exchange standards for state agencies to electronically exchange information with each other and with the federal government. No later than June 30, 2015, HHS must send to Congress a report on this Act's provisions. The report must include a review of the effectiveness of state child support enforcement programs, recommendations for methods to improve these programs, and a review of states' best practices. The amendments in this Act shall take effect on October 1, 2015.