

The Child Welfare Emergency Assistance Act



Emergency Support to the Children Welfare System to Assist Vulnerable Children and Families during the COVID-19 Health Crisis

On July 2, Senators Sherrod Brown (D-OH), Kamala D. Harris (D-CA), Bob Casey (D-PA), and Catherine Cortez Masto (D-NV) introduced the Child Welfare Emergency Assistance Act of 2020 (S. 4172). The bill will provide a much-needed infusion of emergency resources to help the child welfare system adequately respond to the challenges presented by the COVID-19 pandemic.

Title I—Funding for Child and Family Support Services

SEC. 101. FUNDING FOR CHILD AND FAMILY SERVICES.

For the fiscal year 2020, there will be an additional \$2 billion administered to states,¹ tribes, tribal organizations, and tribal consortia in order to support a wide range of services covered under Title IV-B.

Fund Availability:

- Three percent of the appropriated funds will be for Indian tribes, tribal organizations, and tribal consortia.
- Funds will be distributed within 30 days of enactment.
- States, tribes, tribal organizations, and tribal consortia have until July 1, 2022 to obligate the funds, which must be used by September 30, 2022. If there are funds left unobligated by July 1, 2022, then they will be redistributed and will be available until September 30, 2023.
- There is no match requirement to use these additional funds.
- Funds may not be used to satisfy a matching component of existing federally funded programs.
- No more than 10 percent of these funds may be used for administrative costs.

Targeted use of this funding can include:

- Kinship Placement Support Services: crisis stabilization services specific to the COVID-19 public health emergency, family finding efforts for children at risk of entering foster care, reestablishing family relationships and family group decision making, information on becoming a licensed foster home, and other assistance or services to support kinship families impacted by the COVID-19 emergency.
- Child Welfare Services: services in accordance to Subpart 1 of Title IV-B designed to stabilize children, youth, and families impacted by the COVID-19 public health emergency by providing assistance for transportation, housing, utility payments, and access to adequate health care and childcare.
- Adoption Promotion and Support Services: services in accordance to Subpart 2 of Title IV-B, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.
- Development and Training for Caseworkers and Other Agency Staff: hiring, training, and supporting staff; expanding the ability for staff to be safe when working by purchasing personal protective equipment and updating technology to improve remote work.
- These funds may also be used for any of the activities allowable under Subparts 1 and 2 of Title IV-B.

Reports:

- Within 120 days after this bill's enactment, states, tribes, tribal organizations, and tribal consortia must submit a report on how they plan to use the funds.

¹ Unless otherwise stated, for the purposes of this fact sheet, "State" refers to each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Island, the Northern Mariana Islands, and American Samoa.

- States, tribes, tribal organizations, and tribal consortia must also report the actual expenditures made using these funds by June 30 of the next fiscal year.
- The Secretary must also submit a report within 60 days after the state and tribal reports are due that summarizes the use of funds and actual expenditures to appropriate members of Congress.

SEC. 102. FUNDING FOR KINSHIP NAVIGATOR PROGRAMS.

For the fiscal year 2020, there will be an additional \$30 million to states and tribes for grants to develop, enhance, or evaluate kinship navigator programs.

Fund Availability:

- Funds will be distributed within 30 days of enactment.
- States and tribes have until July 1, 2022 to obligate the funds, which must be used by September 30, 2022. If there are funds left unobligated by July 1, 2022, then they will be redistributed and will be available until September 30, 2023.
- There is no match requirement to use these additional funds.
- Funds may not be used to satisfy a matching component of existing federally funded programs.

Targeted use of this funding can include:

- Improved Access to Resources: ensure access to information and resources (including food, safety supplies, COVID-19 testing and treatment), technology and technological supports, and healthcare and other assistance (like legal assistance for making alternative plans for the children in their care if they become unable to care for them).
- Helping Kin Caregivers Outside of the Foster Care System: facilitate outreach to those caring for children outside the foster care system to ensure they have access to information, supports, and resources stated above.

Reports:

- Within 120 days after this bill's enactment, states and tribes must submit a report on how they plan to use the funds in accordance with this section.
- States and tribes must also report the actual expenditures made using these funds by June 30 of the next fiscal year.
- The Secretary must also submit a report within 60 days after the state and tribal reports are due that summarizes the use of funds and actual expenditures to appropriate members of Congress.

SEC. 103. FUNDING FOR THE JOHN H. CHAFEE FOSTER CARE PROGRAM FOR SUCCESSFUL TRANSITION TO ADULTHOOD.

For the fiscal year 2020, there will be an additional \$500 million to states, tribes, tribal organizations, and tribal consortia for the John H. Chafee Foster Care Program for Successful Transition to Adulthood.

Fund Availability:

- The first payment will be distributed within 30 days of enactment, and then subsequent payments will happen quarterly.
- \$750,000 will be reserved for Indian tribes, tribal organizations, and tribal consortia to be distributed proportionate to the percent of total tribal Chafee funds that each tribe, tribal organization, and tribal consortium received in FY2020.
- There will be an expedited process for those that were eligible but did not receive an allotment in FY2020 to apply for an allotment under this additional new funding. If expedited awards are allotted, the Secretary will adjust grant amounts to ensure the total amount awarded does not exceed the total amount reserved.
- After the tribal allotments have been reserved, the remaining funds will be distributed amongst the states in an amount proportionate to the amounts they were allotted for the John H. Chafee Foster Care Program for Successful Transition to Adulthood in FY2020.

- There is no match requirement to use these additional funds.
- Funds may not be used to satisfy a matching component of existing federally funded programs.
- Funds are available through September 30, 2023. Unused funds will be redistributed and will be available until September 30, 2024.

Targeted use of this funding can include:

- General Program Funding: continue to provide Chafee Program services.
- Direct Payments to Eligible Youth: recurring payments to help youth meet needs such as food, transportation, technology, work readiness, and other costs in order to avoid and address emergencies.
- Educational and Training Voucher Program: up to a third of the funds may be used to carry out educational and training voucher programs.
- Outreach: conduct a public outreach campaign about the moratorium on youth aging out of the system created in this bill (mentioned below in Sec. 202), as well as provide resource navigation assistance to inform youth about other emergency support.

Programmatic Flexibility:

- Age Eligibility: youth are eligible for up to 12 months after the month in which they would otherwise cease to be eligible due to age.
- Waiver of Limitations on Percentage of Funds Used for Housing Assistance: eliminates the 30 percent funding cap that can be used for room or board for youth who have attained 18 years of age and were in foster care at 14 years of age or older.
- Elimination of Certain Requirements: eliminates the requirement that youth participating in the education and training voucher program are making satisfactory progress toward completion of that program. However, the youth still must be enrolled in a postsecondary education or training program.

Reports:

- Within 120 days after this bill's enactment, states, tribes, tribal organizations, and tribal consortia must submit a report on how they plan to use the funds in accordance with this section.
- States, tribes, tribal organizations, and tribal consortia must also report the actual expenditures made using these funds by June 30 of the next fiscal year.
- The Secretary must also submit a report within 60 days after the state and tribal reports are due that summarizes the use of funds and actual expenditures to appropriate members of Congress.

SEC. 104. FUNDING FOR THE CHILD WELFARE COURT IMPROVEMENT PROGRAM.

For the fiscal year 2020, there will be an additional \$30 million for Court Improvement Program grants to states, tribes, and tribal consortia.

Allocation of Funds:

- \$5 million will be reserved for tribal courts. These funds will be divided among each of the highest Tribal courts who were awarded a Court Improvement Program grant in FY 2020 in the same proportion that tribal courts were awarded in that fiscal year.
- For eligible tribal courts that were not awarded a FY 2020 Court Improvement Program grant, there will be an expedited process for awarding grants on a competitive basis. If expedited awards are allotted, the Secretary will adjust grant amounts to ensure the total amount awarded to tribal courts does not exceed the \$5 million reserved.
- The highest state courts will each receive \$255,000. Remaining funds will be divided among states proportionate to the percent of the total number of people in the United States under 21 that reside in that state.

Fund Availability:

- The first payment will be distributed within 30 days of enactment, and then subsequent payments will happen quarterly.

- States, tribes, and tribal consortia have until July 1, 2022 to obligate the funds, which must be used by September 30, 2022. If there are funds left unobligated by July 1, 2022, then they will be redistributed and will be available until September 30, 2023.
- There is no match requirement to use these additional funds and there will be no application process to receive funding (except for eligible tribal courts that did not receive a FY 2020 allotment).

Targeted use of funding can include:

- A significant portion of the grant funds should be spent on improving technology to facilitate remote hearings or other child welfare court proceedings and on training judges and other staff to use technologies, including how to conduct remote proceedings and collect data.

Reports:

- Within 120 days after this bill's enactment, states and tribes must submit a report on how they plan to use the funds in accordance with this section.
- States, tribes, and tribal consortia must also report the actual expenditures made using these funds by June 30 of the next fiscal year.
- The Secretary must also submit a report within 60 days after state and tribal reports are due that summarizes the use of funds and actual expenditures to appropriate members of Congress.

SEC. 105. FUNDING FOR HEALTH OVERSIGHT AND COORDINATION PLANS.

For fiscal year 2020, there will be an additional \$50 million for the purpose of helping states, tribes, tribal organizations, and tribal consortia implement and operate health oversight and coordination plans under subpart 1 of Title IV-B.

Allocation of Funds:

- \$5 million will be reserved for tribes, tribal organizations, and tribal consortia. These funds will be divided among tribes and tribal consortia that receive funds under Title IV-B Subpart 1 and operate a program under 479B of the Social Security Act, in the same proportion that tribes were awarded Title IV-B funds in FY 2020.
- For tribes, tribal organizations, and tribal consortia that do not operate a program under 479B, there will be an expedited process for awarding allotments on a competitive basis. If expedited awards are allotted, the Secretary will adjust grant amounts to ensure the total amount awarded does not exceed the \$5 million reserved.
- After the tribal government allotments have been reserved, the remaining funds will be distributed amongst the states in an amount proportionate to the amounts they were allotted for health oversight and coordination plans in FY2020.

Fund Availability:

- The first payment will be distributed within 30 days of enactment, and then subsequent payments will happen quarterly.
- States, tribes, tribal organizations, and tribal consortia have until July 1, 2022 to obligate the funds, which must be used by September 30, 2022. If there are funds left unobligated by July 1, 2022, then they will be redistributed and will be available until September 30, 2023.
- There is no match requirement to use these additional funds.
- Funds may not be used to satisfy a matching component of existing federally funded programs.

Targeted use of funding can include:

- Implementation and operation of a health oversight and coordination plan as required under section 422(b)(15)(A) of the Social Security Act. If a tribal government has not been required to implement and operate such a plan, they should use funding to develop and carrying out such plans.
- COVID-19 testing and treatment for children, parents, and caregivers to support child health and placement stability.

- Mental health services and supports, including to address needs from health issues, social isolation, and economic deprivation stemming from the pandemic.
- Telehealth services so children have uninterrupted access to needed pediatric care, as well as behavioral and mental health services.
- Necessary in-person care, including on-time provision of vaccinations.

Reports:

- Within 120 days after this bill's enactment, states and tribes must submit a report on how they plan to use the funds in accordance with this section.
- States, tribes, tribal organizations, and tribal consortia must also report the actual expenditures made using these funds by June 30 of the next fiscal year.
- The Secretary must also submit a report within 60 days after state and tribal reports are due that summarizes the use of funds and actual expenditures to appropriate members of Congress.

Title II—Other Support for Responding to the COVID-19 Public Health Emergency

SEC. 201. STATE OPTION TO WAIVE LICENSING REQUIREMENT FOR PURPOSES OF SATISFYING THE 6-MONTH RESIDENCY REQUIREMENT FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.

One of the existing eligibility requirements for the Title IV-E Guardianship Assistance Program is that a child must have resided for six consecutive months in the home of a prospective relative guardian who was a licensed foster home. This bill would temporarily allow states, tribes, and tribal organizations to count any consecutive months during the period of February 1, 2020 to September 30, 2022 in which a child lives with a prospective relative caregiver towards the 6-month residency requirement, regardless of when the relative became licensed.

SEC. 202. MORATORIUM ON AGING OUT OF FOSTER CARE.

No child in foster care will exit foster care because of their age from the period of February 1, 2020 to September 30, 2022. Additionally, during this period, the bill suspends the educational, work, or training requirements for extended Title IV-E foster care.

Outreach and Re-entry:

- Children who have been discharged from foster care due to age during the moratorium period shall be identified and provided notice that they may re-enter foster care.
- Procedures to facilitate the children's re-entry into foster care must be established. This includes the payment of foster care maintenance payments during the moratorium, including payments accrued before the child re-entered foster care.

This moratorium requirement applies regardless of whether the state, tribe, tribal organization, or tribal consortium has elected to extend Title IV-E foster care to youth beyond age 18.

SEC. 203. TEMPORARY INCREASE OF MATCHING RATES FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS, ADOPTION ASSISTANCE PAYMENTS FOR KIN CAREGIVERS, AND FAMILY FIRST PREVENTION SERVICES.

The federal matching rate for the Title IV-E Guardianship Assistance Program and Title IV-E Adoption Assistance Program will increase to 100% for children placed with relative caregivers. The federal matching rate for the Title IV-E Prevention Program will also increase to 100% (up from 50% currently). These temporarily enhanced reimbursements rates apply from March 31, 2020 to October 1, 2022.

Title III—OTHER PROVISIONS

SEC. 301. COURTS ACT

Court Improvement Program funds are being reauthorized and will be increased from \$30 million to \$60 million for the fiscal years 2022 through 2028.

Allocation of Funds:

- \$5 million will be reserved for tribal courts. These funds will be awarded on a competitive basis among the highest tribal courts who are operating a Title IV-E program, who have Title IV-E implementation grant, or who have a court responsible for proceedings related to foster care or adoption.
- The highest state courts will each receive \$255,000. Remaining funds will be divided among the highest state courts proportionate to the percent of the total number of people in the United States under 21 that reside in that state.

SEC. 302. REQUIREMENT FOR DE-ESCALATION STRATEGIES RELATING TO INTERACTIONS WITH LAW ENFORCEMENT AUTHORITIES.

Within 180 days of enactment, states will be required to update their state plans for Child Welfare Services (Title IV-B, Subpart 1) to describe the steps the state is taking to develop and implement de-escalation strategies, to train caseworkers and other child welfare staff on the de-escalation strategies, and to require child welfare agencies to review child welfare interactions with law enforcement. For each of the fiscal years 2020 through 2022, \$15 million will be appropriated to states and tribes to train on the de-escalation strategies.

De-escalation Strategies Focuses:

- Reduce unnecessary interactions with law enforcement authorities for those coming to the attention of child welfare agencies and for those in foster care.
- Ensure law enforcement authorities and caseworkers, social workers, and other staff collaborate when interactions do occur.
- Ensure involvement of law enforcement agencies in child abuse or neglect investigations, child welfare interventions, placement incidents, or court/administrative proceedings involving children or youth in foster care is not coercive or intended to intimidate.
- Promote provision of trauma-informed, culturally responsive programming and services for children and youth in care.

Updated state plans must describe steps being taken to:

- Provide training on de-escalation strategies for child welfare staff, including:
 - Caseworkers;
 - Supervisors and support staff;
 - Personnel employed or preparing for employment by the state agency administering Title IV-B and Title IV-E plans;
 - Personnel employed or preparing for employment by local agencies administering Title IV-B and Title IV-E plans;
 - Staff of state-licensed or state-approved public or private nonprofit child welfare agencies;
 - Tribal child welfare agencies and organizations;
 - Staff of law enforcement authorities;
 - State and tribal court personnel, including judges;
 - Current or prospective foster or adoptive parents;
 - Relative guardians;
 - Kin caregivers; and
 - Staff of state-licensed and state-approved child care institutions, including congregate care settings, residential treatment facilities and qualified residential treatment programs.

- Ensure relevant stakeholders review system interactions with law enforcement authorities that are required under Title IV-B and Title-IV-E or the Child Abuse Prevention and Treatment Act, in order to ensure such interactions occur in a manner that protects children, does not traumatize children, and is in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the trauma's consequences and facilitate healing. Relevant stakeholders include:
 - State and local agencies responsible for administering Title IV-B and Title IV-E plans;
 - State-licensed or state-approved public or private non-profit child welfare agencies; and
 - Tribal child welfare agencies.

Allocation of Funds for Training on De-escalation Strategies Related to the Interactions with Law Enforcement Authorities:

- For each of the fiscal years 2020 through 2022, \$15 million will be appropriated to states and tribes to train on the de-escalation strategies.
- Each state (excluding those enumerated above) will receive not less than \$200,000.
- Each tribe or tribal consortium with an approved plan under Title IV-B, as well as Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa, will be administered an amount that will not exceed \$100,000.
- Remaining funds will be allocated to states, tribes, and tribal consortia through a formula determined by the Secretary that takes the number of children in foster care into account.

Fund Availability:

- Amounts allotted to states, tribes, and tribal consortia for a fiscal year are available for expenditure through the end of the succeeding fiscal year.
- There is no match requirement to use these additional funds.
- Funds may not be used to satisfy a matching component of existing federally funded programs.
- The limitation on administrative costs does not apply for these funds.

Reports:

- Each state, tribe, or tribal consortium provided an allotment shall submit a report containing information that the Secretary requires on the activities carried out with the funds. The Secretary may modify some of the reporting requirements for tribes or tribal consortia based on their unique circumstances

SEC. 303. EMERGENCY DESIGNATION

The amounts provided by this Act are designated as an emergency requirement pursuant to the Statutory Pay-As-You-Go-Act of 2010. In the Senate, this Act is designated as an emergency requirement pursuant of H. Con. Res. 71, the current resolution on the budget for fiscal year 2018.