

NLWJC - Kagan

DPC - Box 023 - Folder 015

Family - Adoption, Legislative [1]

Family - adoption -
Cyrilative

Nicole R. Rabner

08/13/98 02:34:27 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Jennifer L. Klein/OPD/EOP

Subject: Child Welfare Update

I wanted to update you both on a few things related to child welfare:

(1) The House Ways and Means Committee is planning a hearing on September 15th on MEPA oversight and implementation, at which HHS has agreed to testify. Mary advises that the Republicans want to use this as a political opportunity to criticize us, as they have in the past, for not being aggressive enough in our monitoring of this law. Mary is thinking of issuing a letter from Sfalala to the States prior to the hearing to re-emphasize our commitment to full and aggressive implementation.

However, the prospect of this hearing has raised another issue, which is a Notice of Proposed Rulemaking that HHS sent to OMB last month, and which we are in the early process of reviewing. The NPRM covers huge territory, including the revised monitoring and penalty structure for MEPA. It also includes:

- Pieces of the implementation of the Adoption and Safe Families Act, including provisions covering (1) reasonable efforts, (2) permanency planning hearings, (3) termination of parental rights, and (4) background checks on prospective adoptive and foster care parents. (HHS intends to include other pieces of the Act -- family preservation and Medicaid eligibility provisions -- in a separate NPRM.)
- A revamping of federal child welfare reviews, both IV-E eligibility reviews and state plan compliance reviews.

We sent the first staff-level passback to HHS, which included dozens of questions and requests for additional information, but HHS is now eager to put out the NPRM before the upcoming hearing on MEPA. While this is going to be very hard to do (OMB advises that this is one of the meatiest NPRM they have worked on, and are worried about hurrying a process that covers such important issues, particularly with vacations, etc.), we will do our best to work with HHS on this draft NPRM, and have scheduled a conference call for the first week in September to hear HHS' response to our first round of significant comments. We're also going to explore whether we can clear just the MEPA provisions of the NPRM (and possibly publish just that piece) so that HHS can talk about it at the hearing. We'll keep you posted as this moves forward in early September.

(2) I'm beginning conversations with HHS and others to explore administrative and legislative actions we might take to address the issue of children "aging out" of the foster care system, *i.e.* becoming 18 with no permanent or adoptive placement. This group of young adults have high rates of chronic depression and other mental health problems, homelessness, juvenile crime, school drop-out, etc., and the services that support them are surprisingly minimal. An announcement in this area might make a good message event in November tied to National Adoption Month and scheduled around Thanksgiving (this population has no where to go for Thanksgiving). This is an issue that the First Lady is particularly interested in.

(3) Bruce, you had sent an article to Jen and me asking about the status of a proposal by Sen. Carl

Levin to establish a voluntary national registry of parents and children seeking their biological children/parents. This bill has been extremely controversial for many years. You'll remember that Levin attached this bill to the Senate-version of the Adoption and Safe Families Act last year and in so doing nearly stalled to death action on the bill. (The First Lady spoke to Levin to persuade him to remove the provision in conference so that the bill could pass; in so doing, she agreed to be helpful to him on this issue and met with Levin earlier this year with HHS present.)

There is a small but extremely vocal (and influential with certain conservative Members) group of advocates that oppose this registry on privacy grounds, arguing that it could be used to "out" parents who have given up their children for adoption (*i.e.* child and birth mom find one another by each signing onto the voluntary registry, but then mom "outs" dad). This vocal group of opponents (led by Bill Pierce of the National Council on Adoption) has prevented Levin from even having a hearing on this bill, until recently (the article you clipped was from the hearing).

We did not testify at the hearing nor have we taken a recent position on this bill (generally we "do not oppose"), and HHS has been reluctantly looking at ways in which they can administratively address this issue, by expanding its web site, etc. Because of the controversy that surrounds it, I don't imagine that the bill has any prospect of moving in the near future.

Adoption - legislative

**JOSHUA
GOTBAUM**

11/10/97 12:52:54 AM



Record Type: Non-Record

To: Elena Kagan/OPD/EOP, Nicole R. Rabner/WHO/EOP

cc: Barry White/OMB/EOP, Matthew McKearn/OMB/EOP, Keith J. Fontenot/OMB/EOP

Subject: Adoption Offset

I spoke with Ron Haskins and Dennis Smith and reported that we could accept their proposed offset.

Until they heard that the House would come back Thursday, they were planning an offset from the basic TANF block grant (in order to have a bill drafted tonight), rather than the contingency fund. Since, however, they have until Thursday, they will draft the offset from the TANF contingency fund and will make language available for us to review tomorrow morning.

12-90-97

Adoption conference

1. Terminating parental rights

New kids - entering syst after enactment

Old kids - already in syst.

For ~~adoption~~ new: clock starts on date ^(comes into system) of ~~enactment~~
clock ends 15 mos or ³/₃ mos after
st leg's session ends.

~~Some~~ For ~~the~~ current kids - initiating TPR must happen:

1/3 → 6 mos after end of ^{1st} sess

1/3 → 12

1/3 → 18

→ ≈ 1/1/99

but in no case less than: ~~18~~

15 of the most recent 22 (?)

2. TPR - CT requirement:

Need to document compelling reason to delay TPR in case plan
"which shall be available for court review"

3. Criminal background checks

- Member issue -

Camp terribly upset - he wants it
opt-in

At least be opt-out.

May be total opt-in.

NOT
RESOLVED

Briefing - in 16 points
All members

- Rochester
- Chater
- Crawley
- Coates

Waste / Item - Adoption bill 11/9/97
8 or 9 remaining issues

1. Demos - waiver auth

Many - writing phase-in language

Sen - unlimited (Roth)

House - additional 30 IS

Roth already indicated - willing to phase in.

Auth for 20 or "as many as practicable"

(Hans Demos -
adoption auth
15)
We've said
20-25

2. Family pres wealth

& can be used for -
reunit. services
family support services
adoption services

Repubs have wanted wealth -
sounds like better to do
adoption promotion services -
by changing the preamble?

NOT substantive fight

HHS + Demos rather have change, but not do or die

3. Criminal background checks.

Sen - required for foster care / adoptive parents - mandate
House - softer (if a state chooses) - opt-in
Not stated position [two-way position - opt-out.]

4. Bonus - Added language

State can only get it they agree to accept kids from
other states for Medicaid.



[Why isn't this fixed by new
Medicaid provision?]

Drafting problem - no state can get
bonus if there's any
failure of reciprocity,

↳ should be.

Not a matter of
reciprocity
ays.

Major issue is pay-for + whether it's mandatory.
If it's mand, then we have savings - makes offt's less imp
HHS does not like mand -
but also doesn't like our offt
Have to choose one.

5. Repubs want HHS report on revenue financing of child welfare.
45 mins - when is it due?
Repubs - 6 mos / HHS - 24 months.

Tell HHS to stop being ridiculous.

6. Tech changes on TPR

Many says - This is their problem, tho we should weigh in as technicians.

- state capacity
issues - we've w/ltun on both
- a. Transition rule - HHS - new cases - willing to go along small cases, but thinks states can't handle. to phase in over 3 yrs.
state - all cases
- b. State documentation needs to be sent to CT?
(can just document itself - ^{CT =} one more delay/hurdle)

INTERNAL TALKING POINTS: ADOPTION LEGISLATION

- With the strong urging and support of the President and the First Lady, the Congress is working to pass historic, bipartisan legislation on adoption before the congressional recess.
- Last spring, the House of Representatives passed the Adoption Promotion Act of 1997, sponsored by Representatives Camp and Kennelly, with the strong support of the President.
- On Saturday evening, November 8, 1997, with the strong urging of the Administration, the Senate passed by unanimous consent the Promotion of Adoption, Safety, and Support for Abused and Neglected Children Act, sponsored by Senators Chafee and Rockefeller.
- With the close involvement of the Administration, the House of Representatives and the Senate are working to resolve the differences in their two bills and pass an adoption bill before the recess to ensure that a bill reaches the President's desk this year.
- The pending legislation builds on the commitment of the President to at least double the number of children from the child welfare system who are adopted or placed in permanent homes by the year 2002. It incorporates recommendations made by the Administration's *Adoption 2002* report to provide states with financial incentives to increase the number of children adopted and to make other changes in federal law that will make adoption easier and move children more quickly out of foster care and into permanent homes.
- The President and the First Lady are committed to improving our nation's child welfare system for the thousands of children who come to rely on it because their own homes jeopardize their health or well-being. Today, approximately 500,000 of America's children live in our nation's foster care system.
- The President and the First Lady have worked hard on this legislation. Last December, the President directed the Secretary of Health and Human Services to conduct wide consultations and report to him with specific recommendations for legislative and administrative strategies to move children more rapidly from foster care to permanent homes and to meet the goal of at least doubling adoptions and other permanent placements by the year 2002.
- Issuing the Executive Memorandum on adoption in a radio address, the President said, "With this effort we're saying no child should be trapped in the limbo of foster care; no child should be uncertain what the word "family" or "parent" or "home" mean, particularly when there are open arms waiting to welcome these children into safe and strong households, where they can build good, caring lives." [December 16, 1997]
- On Valentine's Day, 1997, the President received the formal recommendations for legislative and administrative action -- in a report called *Adoption 2002* -- in an Oval Office ceremony. There, he committed to (1) making sure that children's health and safety are the paramount

concerns of the child welfare system; (2) meeting the goal of doubling the number of adoptions each year by working with states to set state-by-state annual targets and to provide assistance for innovative strategies; (3) proposing legislation to give bonuses to states for each adoption over the prior year's total, with larger bonuses for adoptions of children with special needs; (4) working with Congress to shorten the time a child in foster care waits for a court hearing; (5) establishing national awards for excellence in promoting adoption; and (6) redoubling efforts to make sure that no child of one race is deprived of a loving home when a child of another race is prepared to give it.

- Committing to aggressive legislative and administrative action, the President said "Putting this plan into place today will mean that we are ensuring that no child will languish in foster care." [February 14, 1997]
- The Adoption Promotion Act of 1997, which the House of Representatives passed last spring and the President's strongly supported, reflects the President's priorities. The Senate bill currently under consideration also reflects the President's priorities and commitment to improving our nation's child welfare system. The Administration is very hopeful that a bill will reach the President's desk this year.
- If passed, this legislation would build on the President's strong record on promoting adoption. For example, the President has:

Made adoption more affordable for families by signing into law the Small Business Job Protection Act of 1996, which provides a \$5,000 tax credit for families adopting children and a \$6,000 tax credit for families adopting children with special needs;

Broke down racial and ethnic barriers to adoption by signing the Multi-Ethnic Placement Act in 1994 and by strengthening it through the Small Business Job Protection Act of 1996 to ensure that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity; and

Provided supports for child protection and adoption by signing the into law the Family and Medical Leave Act in 1993, which enables parents to take time off to adopt a child without losing their jobs or health insurance and ensuring that the welfare reform law maintained the guarantee of child protection and adoption, and did not reduce funds for child welfare, child abuse, foster care and adoption service.

- November is National Adoption Month. Last week, the President issued an proclamation, which urged, "As a Nation, we have before us an opportunity to make a real difference in the lives of our most vulnerable children. As we observe National Adoption Month, we reaffirm our commitment to adoption as a new beginning for thousands of children, and we celebrate the many American families who have embraced these children by accepting the rewards and responsibilities of adoption." [November 4, 1997]

Elene
↙

Adoption - legislative

DRAFT -- FOR RELEASE ONLY UPON PASSAGE OF ADOPTION BILL

STATEMENT BY THE PRESIDENT

I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home. I very much look forward to signing the Adoption and Safe Families Act of 1997 into law.

This legislation makes clear that children's health and safety are the paramount concerns of the public child welfare system. I am particularly pleased that the bill incorporates my Administration's recommendations to provide states with financial incentives to increase the number of children who are adopted and to make other changes in federal law that will make adoption easier and move children more rapidly out of foster care and into permanent homes. The legislation also strengthens support to states for services that help families stay together when that is possible and promote adoption when that it not. Most important, this legislation will help us meet the goal of doubling, by the year 2002, the number of children who are adopted or permanently placed each year.

I want to thank the many members of the Senate and the House of Representatives who worked so hard on this bipartisan achievement, but I particularly want to thank the congressional leadership and the sponsors of this legislation, Senators Chafee and Rockefeller and Representatives Camp and Kennelly, for their commitment. And I would like to add a special word of thanks to the First Lady for her tenacity and dedication to this important issue.

I can think of no better way to celebrate National Adoption Month than to sign this legislation into law.

Internal Q and As for the Signing of the Adoption Bill

Q: What is the President signing today?

A: The President is signing the Adoption and Safe Families Act of 1997 which passed Congress with overwhelming bipartisan support. The bill incorporates recommendations made by the Administration to provide states with financial incentives to increase the number of children adopted and to make other changes in federal law that will make adoption easier and move children more quickly out of foster care and into permanent homes. This legislation builds on the President's commitment to at least double the number of children from the child welfare system who are adopted or placed in permanent homes by the year 2002.

Q: What will this bill do?

A: This bill makes clear that children's health and safety are the paramount concerns of the public child welfare system. The bill incorporates the Administration's recommendations to provide clarification on the reasonable efforts standard (which determines whether and when children will remain with their parents), to provide states with financial incentives to increase the number of children adopted, and to provide health coverage for adopted children with special needs through Medicaid or the new state children's health insurance program. Most important, this legislation will help us meet the goal of doubling, by the year 2002, the number of children who are adopted or permanently placed each year.

Q: Was the Administration involved in developing this legislation?

A: Yes. The President and First Lady have worked hard on this legislation. The bill builds on the commitment of the Administration to at least double the number of children from the child welfare system who are adopted or placed in permanent homes by the year 2002. It incorporates recommendations made by the Administration's "Adoption 2002" report to provide states with financial incentives to increase the number of children adopted and to make other changes in federal law that will make adoption easier and move children more quickly out of foster care and into permanent homes. The Administration's recommendations were introduced in Congress by Senators Chafee and Rockefeller and Representatives Camp and Kennelly.

Q: How much new money is in the bill and what will the new money go for?

A: The legislation affirms the President's commitment to promoting financial incentives to states to increase the number of children who are adopted, leading to a doubling in the annual number of children adopted by the year 2002. The legislation authorizes \$20 million for each of 5 years (FY 1999 to FY 2003), or a total of \$100 million, to provide incentive payments to states that increase the number of children who are adopted from the foster care system each year. For every additional child adopted, the states will receive \$4,000, with an additional \$2,000 paid for each adopted child with special needs.

Additionally, the bill reauthorizes the Family Preservation and Support program through FY2001 at the following levels: \$275 million in FY 1999; \$295 million in FY2000; and \$305 million in FY2001. It also authorizes \$30 million for technical assistance to states and courts over 3 years, and provides funding of at least \$8 million for health insurance coverage for children with special needs not otherwise covered.

Q: How is the bill paid for?

A: Congress decided to pay for the very small amount of funds needed for this legislation by reducing the future allocation of the federal Contingency Fund for State Welfare Programs for the years 1998 through 2001. The \$2 billion federal fund, created by the 1996 welfare reform law, would be reduced by a total of \$40 million over 4 years, or less than 2%. The adoption incentives are paid for by savings from the foster care system when a child is placed in adoption

Q: What was the "Adoption 2002" report?

A: In response to a 1996 Presidential directive signed by President Clinton, HHS issued the "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double by the year 2002, the number of children adopted or permanently placed each year. "Adoption 2002" outlines a new action plan to set and meet urgent new adoption targets.

Key among the actions outlined is the commitment to clarify the reasonable effort standard - which governs whether and when to remove a child from his or her family. Additionally, the report recommends offering states sensible financial incentives to increase adoptions and permanent placements; and providing technical assistance to states, courts and communities to help move children more rapidly from foster care to permanent homes.

Q: What else has the Administration done to promote adoption?

A: The Clinton Administration has taken several important steps to encourage and increase adoptions and to support families that choose to open their hearts and their homes to these children. Since taking office in 1993, the President has championed programs that find and assist adopting families, and has committed his Administration to breaking down barriers, including high adoption costs, delays based on race, and complex regulations.

These steps include signing into law a \$5,000 tax credit to families adopting children and a \$6,000 tax credit for families adopting children with special needs; strengthening the Multi-Ethnic Placement Act which helps to ensure that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity; and signing into law the Family Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or health insurance.

Q: What are the Adoption 2002 Excellence Awards being given out today?

A: The "Adoption 2002" report recommends that the Department of Health and Human Services work in collaboration with foundations and intergovernmental organizations to establish annual awards to recognize states, local agencies, courts, private organizations, employers and others who are making key contributions to the national effort to support adoption and promote permanency for children in foster care. The first awards were given today in celebration of National Adoption Month.

Q: What does our nation's child welfare system look like today? How many children are in it and how long do they stay in foster care on average?

A: Today, approximately 500,000 of America's children live in our nation's foster care system. Our most recent data indicates that 48 percent had been in care 24 months or longer. Of the children in care, approximately 33 percent were less than six years old, 38 percent were white, 45 percent were black, and 14 percent were Hispanic.

Q: Are the President and First Lady planning to adopt a child themselves?

A: No. As they have said, they have no plans to do so.

PRESIDENT CLINTON SIGNS THE ADOPTION AND SAFE FAMILIES ACT OF 1997

November 19, 1997

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal funds will continue for programs that work to keep families together when it is appropriate and safe to do so.

Ensuring that Children are Safe

Clarifies Reasonable Efforts: As the President proposed, the new law ensures that children's health and safety are the paramount concerns of the public child welfare system. It clarifies that there are instances when states are not required to make "reasonable efforts" to keep children with their parents, such as when a parent has been convicted of murdering another child or a child has been abandoned, tortured, or chronically abused.

Doubling the Number of Children Adopted or Permanently Placed by 2002

Creates Financial Incentives: The new law contains the President's plan to offer a financial bonus to states that increase the number of children who are adopted from the public foster care system. These incentives will help to double the number of children adopted. For every additional child adopted, a state will receive \$4,000, with an additional \$2,000 paid for each child with special needs. The Act authorizes \$20 million for each of 5 years (FY 1999 to FY 2003) for the bonuses, though eventually the bonuses will be offset by savings in foster care expenses.

Establishes Tighter Time Limits: Children who cannot safely return to their own families often wait far too long in foster care -- typically over 3 years, but for many much longer. Under the new law, permanency hearings will now be held no later than 12 months after a child enters foster care, 6 months earlier than under previous law; and states must initiate termination of parental rights proceedings, except in specified circumstances, for any child who has been in foster care for 15 of the previous 22 months.

Breaking Down Barriers, Promoting Safe and Stable Families, and Achieving Accountability

Eliminating Obstacles: The new law prohibits delaying or denying adoptions across state or county lines, thereby breaking geographic barriers to adoption.

Providing Supportive Services: The new law ensures that children with special needs keep health insurance coverage when they are adopted, either through Medicaid or through the new children's health program. In addition, the new law reauthorizes the Family Preservation and Family Support Services Program, renamed Promoting Safe and Stable Families, which provides services to strengthen families before crises occur and to ensure safe, stable homes for children who return to their families.

Emphasizing Results for Children: The new law authorizes HHS, in consultation with states, to develop new measures to track and rate state performance efforts in providing child welfare services to ensure successful results for children.

Recognizing Success: Prior to the bill signing today, HHS recognized 13 awardees for significant achievement in helping both adopted children and those waiting for adoption. Among the awardees are families, foundations, members of the media and states that have improved the management of child welfare programs.

THE CLINTON ADMINISTRATION RECORD ON ADOPTION

November 19, 1997

"I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home." -- Statement by President Clinton, November 13, 1997

Today, President Clinton signs into law the Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the Administration's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double, by the year 2002, the number of children adopted or permanently placed each year.

The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. It sets swifter time frames for making permanent placement decisions and terminating parental rights for children. For the first time, states will have financial incentives to increase adoptions. Children with special needs and ongoing medical needs are ensured health care coverage. Federal support will continue for services to keep families together when it is appropriate and safe.

The Clinton Administration has previously taken several important steps to encourage and increase adoptions and to support the families who choose to open their hearts and their homes to these children. Since taking office in 1993, the President has championed programs that find and assist adoptive families, and has committed his Administration to breaking down barriers, including high adoption costs and complex regulations. These steps include:

MAKING ADOPTION AFFORDABLE FOR FAMILIES. Last year, President Clinton signed into law the Small Business Job Protection Act of 1996, which provides a \$5,000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. This provision has alleviated a significant barrier to adoption, helping middle class families for whom adoption may be prohibitively expensive and making it easier for families to adopt children with special needs. Since President Clinton took office, the number of children with special needs who have been adopted with federal adoption assistance has risen by 60 percent. This year, in signing the Balanced Budget Act of 1997, President Clinton ensured more support for families who adopt children with the \$500 Per-Child Tax Credit.

GIVING STATES FLEXIBILITY AND SUPPORT. To test innovative strategies to improve child welfare systems, the Clinton Administration has granted child welfare waivers to California, Delaware, Indiana, Illinois, Maryland, North Carolina, Ohio and Oregon, giving the states more flexibility in tailoring services to meet the needs of children and families. Up to two more states will receive approval for waivers under previous authority. Under the new Adoption and Safe Families Act, HHS will grant up to 10 waivers per year to states. In addition, this Administration has provided states with enhanced technical support and helped improve court operations. In September, HHS awarded 40 demonstration grants to states, local agencies, courts, private organizations, and others committed to promoting adoption, a total of \$7.9 million, for innovative programs to increase adoptions and reduce the number of children in foster care. To prevent children from entering foster care in the first place, in 1993 the Clinton Administration secured federal funding for the Family Preservation and Family Support Program to help states, local governments and service providers develop effective programs to serve children and families at risk.

BREAKING DOWN RACIAL AND ETHNIC BARRIERS TO ADOPTION. The Small Business Job Protection Act of 1996 also ensures that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity by strengthening the Multi-Ethnic Placement Act which the President signed in 1994.

PROVIDING SUPPORTS FOR CHILD PROTECTION AND ADOPTION. In 1993, President Clinton signed into law the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or health insurance. In addition, the welfare reform bill that the President signed into law maintains the guarantee of child protection and adoption, and does not reduce funds for child welfare, child abuse, foster care and adoption services.

RAISING PUBLIC AWARENESS. Through speeches, writings, events and public service announcements, the President and First Lady have promoted the importance and benefits of adoption.

November 18, 1997

**BILL SIGNING CEREMONY FOR HR 867,
THE ADOPTION PROMOTION ACT OF 1997**

DATE: Thursday, November 18, 1997
LOCATION: The East Room
TIME: 1:40pm-2:20pm
FROM: John Hilley
Bruce Reed
Melanne Verveer

I. PURPOSE

To sign into law H.R. 867, the Adoption Promotion Act of 1997.

II. BACKGROUND

Today's bill signing of the Adoption and Safe Families Act of 1997 represents an enormous victory for your agenda to promote adoption and improve our nation's child welfare system. As you know, the bill largely incorporates the Administration's proposals in this area, as outlined in your executive memorandum on adoption to members of your Cabinet (which you issued in a radio address on December 14, 1996.) See attachment #1. Also attached is a November 16, 1997 New York Times article on the significance of this legislation. See attachment #2.

In particular, the bill (1) makes clear that children's health and safety are the paramount concerns of the public child welfare system; (2) clarifies the "reasonable efforts" standard; (3) speeds up court hearings for children in foster care and generally requires states to initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months; (4) provides states with financial incentives to increase the number of children who are adopted; (5) reauthorizes the Family Preservation Program (staving off an expected battle next year) and increases its funding; (6) ensures health coverage for adopted children with special needs by requiring states to provide coverage through Medicaid or the new child health program; (7) expands HHS's

authority to issue waivers to states for child welfare and foster care demonstration projects; and (8) breaks down barriers to adoption across state lines by prohibiting states from denying a suitable out-of-state adoption when no in-state adoption is available.

As you know, Representatives Camp and Kennelly sponsored an adoption bill, H.R. 867, that passed the House last spring, which you strongly endorsed. That bill included nearly all your recommendations and was generally well-received by child welfare advocates. Some advocates, however, urged the Senate bill sponsors -- Senators Chafee and Rockefeller -- to include additional resources in their bill. The final bill includes certain additional investments (largely the reauthorization and expansion of the Family Preservation Program and the guarantee of health care coverage for special needs children who are adopted). It carries no pay-as-you-go costs in the initial years, but costs slightly more than \$50 million over five years.

The bill sponsors -- Representatives Camp and Kennelly and Senators Chafee and Rockefeller -- were particularly significant to the success and strength of this legislation. Through many ups and downs in the past year, they kept together an impressive bipartisan coalition of advocates and members.

Olivia Golden, HHS Commissioner for the Administration on Children, Youth, and Families, will be presenting the 1997 Adoption 2002 Excellence Award to the recipient families and organizations tomorrow morning before the signing ceremony begins. A Presidential Directive was issued on December 14, 1996 to double, over the next five years, the number of children from the foster care system who are adopted or placed in other permanent placements. HHS, in response to the directive, prepared a report that proposed steps to establish annual awards to recognize states, local agencies, courts, private organizations, employers and others who are making key contributions to the effort. There are a total of 13 recommended awards, in six award categories. These awardees will be in the audience during the signing ceremony.

Ms. Sue Ann Badeau will be introducing you. She is a 20 year old girl that was adopted, along with her three siblings, by her foster parents. She is one of 19 adopted children in a family of 21 children. She is from Philadelphia, Pennsylvania.

III. PARTICIPANTS

Pre-Brief

The President

The Vice President

The First Lady
Secretary Shalala
Erskine Bowles
John Podesta
John Hilley
Ron Klain
Melanne Verveer
Bruce Reed
Elena Kagan
Janet Murguia
Jennifer Klein
Nicole Rabner

Event

The President
The First Lady
The Vice President
Secretary Shalala

Sen. John Chafee (R-RI)
Sen. Jay Rockefeller (D-WV)
Rep. Barbara Kennelly (D-CT)
Rep. Dave Camp (R-MI)

Sen. Larry Craig (R-ID)
Sen. Mike DeWine (R-OH)
Sen. Mary Landrieu (D-LA)
Rep. Sandy Levin (D-MI)
Rep. Carolyn Maloney (D-NY)
Rep. Connie Morella (R-MD)
Rep. James Oberstar (D-MN)
Rep. Clay Shaw (R-FL)

Representatives from child advocacy groups
The 1997 Adoption 2002 Excellence Award Winners
Children waiting to be adopted
Children that have been adopted and their families

IV. PRESS PLAN

Open Press

V. SEQUENCE OF EVENTS

1:10 p.m. **The President, The First Lady, and The Vice President** are briefed in the Map Room.

1:30 p.m. **The President, The First Lady, and The Vice President** proceed to Blue Room to greet guests:

Secretary Donna Shalala

Ms. Sue Ann Badeau

Brother/Sister of Sue Ann Badeau

Mr. Dave Thomas

Sen. Jay Rockefeller

Rep. Barbara Kennelly

Sen. John Chafee

Rep. Clay Shaw

Sen. Mary Landrieu

Rep. Dave Camp

Sen. Mike DeWine

Rep. James Oberstar

Sen. Larry Craig

Rep. Carolyn Maloney

Rep. Connie Morella

Rep. Sandy Levin

Note: Upon conclusion of meet and greet, the Blue Room guests who are not speaking will be seated in the East Room.

Note: Sen. Rockefeller, Sen. Chafee, Rep. Kennelly, and Rep. Camp are seated on stage.

1:35 p.m. **The President, The First Lady** are announced to stage from Blue Room with **The Vice President**, Secretary Shalala, and Ms. Badeau.

Note: 15'x20' stage located at Gold Curtain, signing table, document to be signed provided by staff secretary.

The First Lady gives opening remarks and introduces Secretary Shalala.

Secretary Shalala gives remarks and introduces **The Vice President**.

The Vice President gives remarks and introduces Ms. Badeau.

Ms. Badeau gives remarks and then introduces **The President**.

The President gives remarks.

Upon conclusion of remarks, **The President** proceeds to Bill Signing Table to sign bill and invites Members of Congress and children on stage.

Note: Sean Maloney to provide document to be signed.

2:15 p.m. **The President** and **The Vice President** Depart.

The First Lady proceeds to the Blue Room for receiving line.

VI. REMARKS

To be provided by Speechwriting.

VII. ATTACHMENTS

1. Presidential Directive issued in December 1996
2. New York Times article on the significance of the bill.

Draft 11/19/97 1:00am

PRESIDENT WILLIAM J. CLINTON
REMARKS AT SIGNING OF ADOPTION BILL
THE WHITE HOUSE
November 19, 1997

Acknowledgments: Sue Ann Badeau [bah-DOE], who will introduce you; Donna Shalala; bill sponsors Sens. Chafee and Rockefeller, Reps. Camp and Kennelly, and other Members of Congress present today; Adoption 2002 Excellence Award Winners; children, families, advocates, leaders in audience; the First Lady.

A little less than a year ago, as a vital part of our efforts to help our children seize the bright future the new century holds, I directed my Administration to develop a plan to double the number of children we move from foster care to permanent homes by the year 2002. As we all recognize, children should not be trapped in the limbo of foster care -- particularly when there are open arms waiting to welcome them into loving homes. Every child deserves the stability of a safe and strong family.

Thanks to the hard work of so many of you here today -- and the guiding principles that we set forth in the Adoption 2002 report -- we have now set the nation on course to meet our adoption goals. In a few minutes I will sign the bipartisan Adoption and Safe Families Act into law -- fundamentally altering the nation's approach to foster care and adoption, fundamentally improving the well-being of hundreds of thousands of our most vulnerable children.

The new legislation makes clear that children's health and safety are the paramount concerns of the public child-welfare system. It also makes clear that foster care is a temporary setting and not a place for children to grow up.

For example, the new law will help us speed children out of foster care and into loving families by setting meaningful time limits for child-welfare decisions, and by clarifying which family situations call for reasonable reunification efforts -- and which rare cases do not. It will provide states with financial incentives to increase the number of children who are adopted each year. It will ensure that adopted children with special needs will never lose their health coverage. It reauthorizes federal funding for timely services that alleviate crises before they become serious, help reunify families, and help families with their important post-adoption needs.

With these measures, we are helping families stay together when possible but also helping find safe homes quickly when family reunification is not possible or simply wrong for the child. We have come together with extraordinary bipartisan cooperation to meet the urgent needs of families at risk. We have put our differences aside and put our children first.

We've worked hard to do our part, but our efforts also require the participation of warm and giving parents in every community. As we approach Thanksgiving, when families all across America come together to give thanks for their blessings, I'd like to encourage families to consider opening their homes and their hearts to children in foster care who need stable, loving homes. And to those of you here today and around the country who have already done so -- either as foster or adoptive parents -- I say thank you. By giving of yourself, you have given new hope and a new future to your children -- and that is the greatest blessing of all. Thank you and God bless you.

Adoption - legislation

FOR RELEASE UPON PASSAGE OF ADOPTION BILL

STATEMENT BY THE PRESIDENT

I am pleased that the Senate and the House of Representatives have passed historic, bipartisan legislation to promote adoption and improve our nation's child welfare system, giving our nation's most vulnerable children what every child deserves -- a safe and permanent home. I very much look forward to signing the Adoption and Safe Families Act of 1997 into law.

This legislation makes clear that children's health and safety are the paramount concerns of the public child welfare system. I am particularly pleased that the bill incorporates my Administration's recommendations to provide states with financial incentives to increase the number of children who are adopted and to make other changes in federal law that will make adoption easier and move children more rapidly out of foster care and into permanent homes. The legislation also strengthens support to states for services that help families stay together when that is possible and promote adoption when it is not. Most important, this legislation will help us meet the goal of doubling, by the year 2002, the number of children who are adopted or permanently placed each year.

I want to thank the many members of the Senate and the House of Representatives who worked so hard on this bipartisan achievement, but I particularly want to thank the congressional leadership and the sponsors of this legislation, Senators Chafee and Rockefeller and Representatives Camp and Kennelly, for their commitment. And I would like to add a special word of thanks to the First Lady for her tenacity and dedication to this important issue.

I can think of no better way to celebrate National Adoption Month than to sign this legislation into law.

159188

Asopli - - Legislation

(for student defaults)

Part of def
in NSL

1) Board Remove fund for The nondirect guaranteed student loan prog
PSMA - reduced in 2002 - 1b. + //
gives benefit of interest
Go back to bank - some over 5 yrs -
amending by their hits this measure.

PA congress - Repubs don't like direct (L) prog.
so may be reluctant.

Not something to put forward
until very end of day.

6:00 fast track vote.

Secured incorrectly. Mind -> discreet.
This bill creates auth of 20m per yr.
Usually, the approp like the cap - giving you to
use for efforts
But CBO was scared it!
CBO didn't understand - we're trying to
convince them -
Doesn't need to secure!

Adoption Discussions
Outstanding Issues
November 9, 1997

- 1. Short Title of Bill.** The current candidates are:
 - Promotion of Adoption, Safety, and Support for Abused and Neglected Children
 - Promoting Safe and Stable Families

- 2. Terminating Parental Rights: Transition Rule (Sec. 103).** All parties agree that states should be required to apply the new TPR rules to new cases upon enactment and to current cases within 3 years. The Senate may be willing to phase in the requirement for the current caseload at the rate of 1/3rd of the caseload each year for 3 years. Another possible compromise is to phase-in the new rules to one-half of the caseload by the end of the second year and the entire caseload by the end of the third year.

- 3. Terminating Parental Rights: Court Requirement (Sec. 103).** The Senate wants to require that a state court confirm that there is a "compelling reason" for delaying TPR beyond 15 months; the House wants to let the state agency make this determination without going to court.

- 4. Criminal Background Checks: Opt out (Sec. 106).** There is agreement that the bill will provide some type of state opt-out of the background check requirement. The House offers to allow opt-out to occur either by: 1) the governor writing a letter to the Secretary of HHS stating that the state opts out; or 2) the state enacting legislation that opts out of the requirement. This offer needs to be cleared with Senator Coats.

- 5. Criminal Background Checks: Felony Drug Conviction Sec. 106).** The Senate position is that if a criminal background check reveals a "drug-related offense" within the past 5 years, the individual cannot serve as a foster or adoptive parent. The opposing view is that the drug offense be a felony drug offense.

- 6. Documenting Efforts to Find Permanent Home (Sec. 107).** The Senate would like to add the term "or legal custodianship" wherever the term "legal guardianship" appears in this and other sections of the bill. HHS is checking to determine the exact legal meaning of the term "legal custodianship". The House does not necessarily object.

- 7. Incentive Payments (Sec. 201).** The Senate wants to provide mandatory health coverage to non-IV-E adopted children with special needs who move to a state other than the state in which they were adopted; the receiving state would be required to provide the coverage. If the State does not provide this coverage, they would not be eligible for adoption incentive payments. The House objects.

8. Technical Assistance (Sec. 201 & 308). All parties agree that the Secretary should be required to provide technical assistance to states and local communities. But there are differences on two aspects of this provision. First, the House wants to spell out in more detail the types of technical assistance the Secretary is required to provide. Second, the House wants to identify a specific amount of money, either as an authorization or a set aside of Part II funds, that the Secretary can use to provide technical assistance.

9. Adoptions Across Geographical Lines (Sec. 203). All parties agree that states and counties should not be allowed to withhold adoptions across state or county lines unless it is in the best interests of the child to do so. However, the language in the Senate bill is similar to that in the Multi-ethnic Placement Act and may, according to the Administration and the House, require states to send children to other states when it is not in their best interests to do so. HHS will work on some compromise language.

10. HHS Report to Congress on Performance-Based Incentive System (Sec. 203). There is general agreement that HHS should, after consulting with appropriate organizations, report to Congress on a new performance-based financing system that may replace in whole or in part the current IV-B and IV-E programs. The only disagreement is how soon the report must be completed. The Senate wants to require the report within 6 months of enactment; the Administration wants 24 months. The Senate will propose new language.

11. Number of New Demonstration Projects (Sec. 301). HHS currently has authority to grant 10 child protection demonstration grants. The Administration is willing to increase the number of grants to 20. The Senate wants to give the Secretary the authority to permit an unlimited number of demonstrations. The Senate also wants to list specific goals for the demonstrations.

12. Reauthorization of Family Preservation, Support, and Adoptive Services: Title of New Section (Sec. 305). The Senate wants the title to be: "Promoting Adoptive, Safe, and Stable Families"; the House prefers: "Promoting Safe and Stable Families".

13. Reauthorization of Family Preservation, Support, and Adoptive Services: Term "Time-Limited" (Sec. 305). The Senate wants to use the term "time-limited family preservation services"; the House wants to drop the words "time-limited" from the term.

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Page 3

15. Financing (Sec. 404). The Senate provides funds to offset expenditures in the bill by reducing the match for certain Medicaid coverage. The House objects to this provision.

16. Adoption Incentive Payments (Sec. 201). All parties agree that the incentive payments should be mandatory funding. House will discuss with Appropriations Committee.

17. Death Review Teams (Sec. 103 of Senate Bill). The Senate wants to require states to have death review teams; the House objects.

r\adopt

HR867.WK4

11/09/97

01:08 PM

Adopt - legislation

CBO Estimate of H.R. 867

Based on language received Nov. 9, 1997.

PRELIMINARY--This estimate has not been reviewed by the Director of CBO.

(millions of dollars)

11/09/97

Direct spending

1998 1999 2000 2001 2002 '98-02

Sec. 101

Clarification of the reasonable efforts requirement

Foster care and adoption assistance

BA	-2	-3	-5	-5	-5	-20
OT	-2	-3	-5	-5	-5	-20

Sec. 103

States required to initiate termination of parental rights for certain children in foster care

Foster care and adoption assistance

BA	0	*	-3	-5	-8	-15
OT	0	*	-3	-5	-8	-15

Sec. 305

Reauthorization and expansion of Family Preservation and Support

Family Preservation and Support

BA	0	12	24	26	18	80
OT	0	4	14	23	23	65

Sec. 306

Health Insurance Coverage for Children with Special Needs

Medicaid

BA	1	1	1	1	1	5
OT	1	1	1	1	1	5

Sec. 307

Continuation of Eligibility for Adoption Assistance Payments on Behalf of Children with Special Needs Whose Initial Adoption Has Been Disrupted

Foster care and adoption assistance

BA	0	1	1	2	2	6
OT	0	1	1	2	2	6

Sec. 404

Reduction in Medicaid Matching Rate for Skilled Professional Medical Personnel *Begin in 2000*

Medicaid

BA	-14	-15	-17	-18	-20	-85
OT	-14	-15	-17	-18	-20	-85

Take this out

Total Direct Spending

BA	-15	-5	1	-0	-12	-29
OT	-15	-13	-8	-3	-7	-44

*56 in BA
41 in outlays*

Authorizations of Appropriations with Cap Adjustment

Sec. 201

Adoption Incentive Payments

BA	0	20	20	20	20	80
OT	0	6	2	4	1	13

Need or not?

Notes:

Asterisks denote less than \$500,000.

Components may not add to sums due to rounding.

CBO Estimate of H.R. 887

Based on language received Nov. 9, 1997.

PRELIMINARY--This estimate has not been reviewed by the Director of CBO.

(millions of dollars)

11/09/97

Direct spending	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	'88-'07
Sec. 101											
Clarification of the reasonable efforts requirement											
Foster care and adoption assistance											
BA	-2	-3	-5	-5	-5	-5	-5	-5	-5	-5	-50
OT	-2	-3	-5	-5	-5	-5	-5	-5	-5	-5	-50
Sec. 103											
States required to initiate termination of parental rights for certain children in foster care											
Foster care and adoption assistance											
BA	0	*	-3	-5	-8	-8	-9	-9	-9	-10	-60
OT	0	*	-3	-5	-8	-8	-9	-9	-9	-10	-60
Sec. 305											
Reauthorization and expansion of Family Preservation and Support											
Family Preservation and Support											
BA	0	12	24	26	18	9	1	-9	-19	-29	33
OT	0	4	14	23	23	16	8	-1	-11	-21	55
Sec. 306											
Health Insurance Coverage for Children with Special Needs											
Medicaid											
BA	1	1	1	1	1	1	1	1	1	1	11
OT	1	1	1	1	1	1	1	1	1	1	11
Sec. 307											
Continuation of Eligibility for Adoption Assistance Payments on Behalf of Children with Special Needs Whose Initial Adoption Has Been Disrupted											
Foster care and adoption assistance											
BA	0	1	1	2	2	3	4	4	5	6	28
OT	0	1	1	2	2	3	4	4	5	6	28
Sec. 404											
Reduction in Medicaid Matching Rate for Skilled Professional Medical Personnel											
Medicaid											
BA	-14	-15	-17	-18	-20	-23	0	0	0	0	-108
OT	-14	-15	-17	-18	-20	-23	0	0	0	0	-108

Total Direct Spending											
BA	-15	-5	1	-0	-12	-23	-8	-17	-27	-36	-146
OT	-15	-13	-8	-3	-7	-16	-1	-10	-19	-28	-124

Authorizations of Appropriations with Cap Adjustment

Sec. 201

Adoption Incentive Payments

BA	0	20	20	20	20	20	0	0	0	0	100
OT	0	6	2	4	1	2	0	0	0	0	15

Notes:

Asterisks denote less than \$500,000.

Components may not add to sums due to rounding.

NOV-09-97 14:15 FROM: CBO/BRU/RSU/RSU

Overview of Tentative Agreements on Adoption
November 9, 1997

1. Reasonable efforts
2. Safety in case plans and case reviews
3. TPR
5. Criminal records checks
6. Incentive payments
7. New performance incentive report
8. Demos
9. Permanency hearing
10. Reauthorization of IV-B, Part II
11. Health coverage of special needs adopted children
12. Continued adoption payments for disrupted adoptions
13. State standards
14. Technical assistance
15. Reasonable parenting
16. Financing: Medicaid match rate

Adoption Discussions
Outstanding Issues
November 9, 1997

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can't get bonus
in 2001/2002

→ Also can't get a waiver if this isn't done.
new

- ✓ **8. Technical Assistance (Sec. 201 & 308).** All parties agree that the Secretary should be required to provide technical assistance to states and local communities. But there are differences on two aspects of this provision. First, the House wants to spell out in more detail the types of technical assistance the Secretary is required to provide. Second, the House wants to identify a specific amount of money, either as an authorization or a set aside of Part II funds, that the Secretary can use to provide technical assistance.
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Checking w/ Dems

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OK w/ Senate? Yes

MB/: 15 in 99 20 in 2000 25 in 2001 30 or 35 in 2002

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RH: 15 in 98 20 in 99 30 in 01

Repubs + Mary:
HHS can do up to 10 per year
and extend existing waivers.

Secy shall consider: applies re
kinship care / substance abuse /
business to

15. Financing (Sec. 404). The Senate provides funds to offset expenditures in the bill by reducing the match for certain Medicaid coverage. The House objects to this provision.

} worked out for now.

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~~**IX Death Review Teams (Sec. 103 of Senate Bill).**~~ The Senate wants to require states to have death review teams; the House objects.

r\adopt

THE WHITE HOUSE AT WORK
Wednesday, November 19, 1997

"We have put in place...the building blocks of giving all of our children what should be their fundamental right, a chance at a decent safe home; an honorable, orderly, positive upbringing; a chance to live out their dreams and their God-given capacities." -- President Clinton, Nov. 19, 1997

PRESIDENT CLINTON SIGNS THE ADOPTION AND SAFE FAMILIES ACT OF 1997

Today, President Clinton signed into law the landmark Adoption and Safe Families Act of 1997 to help thousands of children waiting in foster care move more quickly into safe and permanent homes. This overwhelmingly bipartisan legislation was based in large part on the recommendations of the President's "Adoption 2002" report. The report takes its name from one of the President's central goals -- to at least double the number of children adopted or permanently placed to 54,000 by the year 2002. The Act makes sweeping changes in federal law on adoption and foster care enacted in 1980. The new law makes clear that the health and safety of children must be the paramount concerns of state child welfare services. The Adoption and Safe Families Act also includes the following:

Ensuring that Children are Safe

- Clarifies Reasonable Reunification Efforts: As the President proposed, the new law ensures that children's health and safety are the paramount concerns of the public child welfare system. The law clarifies that there are instances when states are not required to make "reasonable efforts" to keep children with their parents, such as when a parent has been convicted of murdering another child or a child has been abandoned, tortured, or chronically abused.

Doubling the Number of Children Adopted or Permanently Placed by 2002

- Creates Financial Incentives to Increase Adoptions: The new law contains the President's plan to offer a financial bonus to states that increase the number of children who are adopted from the public foster care system. These incentives will help double the number of children adopted. For every additional child adopted, a state will receive \$4,000, with an additional \$2,000 paid for each child with special needs.
- Establishes Tighter Time Limits -- Setting Swifter Time Frames for Making Permanent Placement Decisions: Under the new law, permanency hearings will now be held no later than 12 months after a child enters foster care, 6 months earlier than under previous law, and states must initiate termination of parental rights proceedings, except in specified circumstances, for any child who has been in foster care for 15 of the previous 22 months.

Promoting Safe and Stable Families

- Ensuring Health Care for Children with Special Needs and Providing Supportive Services: The new law ensures that children with special needs keep health insurance coverage when they are adopted, either through Medicaid or through the new children's health program included in the Balanced Budget. In addition, the new law reauthorizes the Family Preservation and Family Support Services Program, renamed Promoting Safe and Stable Families, which provides services to strengthen families before crises occur and to ensure safe, stable homes for children who return to their families.

Building on the President's Record

Since taking office in 1993, President Clinton has taken important steps to encourage and increase adoptions and to support families who choose to adopt. The President has committed his Administration to breaking down barriers, including high adoption costs and complex regulations. Among these efforts, last year, the President signed into law a \$5,000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. The President also ensured that the adoption process is free from discrimination and delays on the basis of race, culture and ethnicity by strengthening the Multi-Ethnic Placement Act. And the very first piece of legislation the President signed into law, the Family and Medical Leave Act, allows parents to take time off to adopt a child without losing their jobs or health insurance.

Adoption -
Legislation

1 In lieu of the matter proposed to be inserted by the
2 Senate to H.R. 867, insert the following:

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Promotion of Adoption, Safety, and Support for Abused
6 and Neglected Children (PASS) Act”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS
FOR FOSTER CARE AND ADOPTION PLACEMENTS

- Sec. 101. Clarification of the reasonable efforts requirement.
- Sec. 102. Including safety in case plan and case review system requirements.
- Sec. 103. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.
- Sec. 104. Notice of reviews and hearings; opportunity to be heard.
- Sec. 105. Use of the Federal Parent Locator Service for child welfare services.
- Sec. 106. Criminal records checks for prospective foster and adoptive parents and group care staff.
- Sec. 107. Documentation of efforts for adoption or location of a permanent home.

TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES
FOR CHILDREN

- Sec. 201. Adoption incentive payments.
- Sec. 202. Adoptions across State and county jurisdictions.
- Sec. 203. Performance of States in protecting children.

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

- Sec. 301. Authority to approve more child protection demonstration projects.
- Sec. 302. Permanency hearings.
- Sec. 303. Kinship care.
- Sec. 304. Clarification of eligible population for independent living services.
- Sec. 305. Reauthorization and expansion of family preservation and support services.
- Sec. 306. Health insurance coverage for children with special needs.
- Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been disrupted.
- Sec. 308. Technical assistance.

TITLE IV—MISCELLANEOUS

- Sec. 401. Preservation of reasonable parenting.

- Sec. 402. Reporting requirements.
- Sec. 403. Sense of Congress regarding standby guardianship.
- Sec. 404. Reduction in medicaid matching rate for skilled professional medical personnel.
- Sec. 405. Coordination of substance abuse and child protection services.
- Sec. 406. Purchase of American-made equipment and products.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

1 **TITLE I—REASONABLE EFFORTS**
 2 **AND SAFETY REQUIREMENTS**
 3 **FOR FOSTER CARE AND**
 4 **ADOPTION PLACEMENTS**

5 **SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS**
 6 **REQUIREMENT.**

7 (a) **IN GENERAL.**—Section 471(a)(15) of the Social
 8 Security Act (42 U.S.C. 671(a)(15)) is amended to read
 9 as follows:

10 “(15) provides that—

11 “(A) in determining reasonable efforts to
 12 be made with respect to a child and in making
 13 such reasonable efforts, the child’s health and
 14 safety shall be the paramount concern;

15 “(B) except as provided in subparagraphs
 16 (C) and (D), reasonable efforts shall be made—

17 “(i) before a child is placed in foster
 18 care, to prevent or eliminate the need to
 19 remove the child from the child’s home;
 20 and

1 “(ii) to make it possible for the child
2 to return home;

3 “(C) if continuation of reasonable efforts
4 of the type described in subparagraph (B) is de-
5 termined to be inconsistent with the perma-
6 nency plan for the child, reasonable efforts shall
7 be made to place the child in a timely manner
8 in accordance with the permanency plan, and to
9 complete whatever steps are necessary to final-
10 ize the permanent placement of the child;

11 “(D) if a court of competent jurisdiction
12 has determined that the child has been sub-
13 jected to aggravated circumstances (as defined
14 by State law, which definition may include
15 abandonment, torture, chronic abuse, and sex-
16 ual abuse), or a parent of the child has been
17 found by a court of competent jurisdiction—

18 “(i) to have committed murder (which
19 would have been an offense under section
20 1111(a) of title 18, United States Code, if
21 the offense had occurred in the special
22 maritime or territorial jurisdiction of the
23 United States) of another child of such
24 parent;

1 “(ii) to have committed voluntary
2 manslaughter (which would have been an
3 offense under section 1112(a) of title 18,
4 United States Code, if the offense had oc-
5 curred in the special maritime or territorial
6 jurisdiction of the United States) of an-
7 other child of the parent;

8 “(iii) to have aided or abetted, at-
9 tempted, conspired, or solicited to commit
10 such a murder or voluntary manslaughter;
11 or

12 “(iv) to have committed a felony as-
13 sault that results in serious bodily injury
14 to the surviving child or another child of
15 such parent, or

16 “(v) the parental rights of a parent
17 with respect to a sibling of the child have
18 been terminated involuntarily,

19 reasonable efforts of the type described in sub-
20 paragraph (B) shall not be required to be made
21 with respect to any parent of the child who has
22 been involved in subjecting the child to such cir-
23 cumstances or such conduct, or whose parental
24 rights with respect to a sibling of the child have
25 been terminated involuntarily;

1 “(E) if reasonable efforts of the type de-
2 scribed in subparagraph (B) are not made as a
3 result of a determination made by a court of
4 competent jurisdiction in accordance with sub-
5 paragraph (D)—

6 “(i) a permanency planning hearing
7 (as described in section 475(5)(C)) shall be
8 held for the child within 30 days of such
9 determination; and

10 “(ii) reasonable efforts shall be made
11 to place the child in a timely manner in ac-
12 cordance with the permanency plan, and to
13 complete whatever steps are necessary to
14 finalize the permanent placement of the
15 child; and

16 “(F) reasonable efforts to place a child for
17 adoption or with a legal guardian may be made
18 concurrently with reasonable efforts of the type
19 described in subparagraph (B)(i);”.

20 (b) CONFORMING AMENDMENT.—Section 472(a)(1)
21 of such Act (42 U.S.C. 672(a)(1)) is amended by inserting
22 “for a child” before “have been made”.

23 (c) RULE OF CONSTRUCTION.—Nothing in part E of
24 title IV of the Social Security Act (42 U.S.C. 670 et seq.),
25 as amended by this Act, shall be construed as precluding

1 State courts from exercising their discretion to protect the
2 health and safety of children in individual cases.

3 **SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE RE-**
4 **VIEW SYSTEM REQUIREMENTS.**

5 Title IV of the Social Security Act (42 U.S.C. 601
6 et seq.) is amended—

7 (1) in section 422(b)(10)(B) (as redesignated
8 by section 5592(a)(1)(A)(iii) of the Balanced Budget
9 Act of 1997 (Public Law 105-33; 111 Stat. 644))—

10 (A) in clause (iii)(I), by inserting “safe
11 and” after “where”; and

12 (B) in clause (iv), by inserting “safely”
13 after “remain”; and

14 (2) in section 475—

15 (A) in paragraph (1)—

16 (i) in subparagraph (A), by inserting
17 “safety and” after “discussion of the”; and

18 (ii) in subparagraph (B)—

19 (I) by inserting “safe and” after
20 “child receives”; and

21 (II) by inserting “safe” after “re-
22 turn of the child to his own”; and

23 (B) in paragraph (5)—

1 (i) in subparagraph (A), in the matter
2 preceding clause (i), by inserting “a safe
3 setting that is” after “placement in”; and

4 (ii) in subparagraph (B)—

5 (I) by inserting “the safety of the
6 child,” after “determine”; and

7 (II) by inserting “and safely
8 maintained in” after “returned to”.

9 **SEC. 103. STATES REQUIRED TO INITIATE OR JOIN PRO-**
10 **CEEDINGS TO TERMINATE PARENTAL**
11 **RIGHTS FOR CERTAIN CHILDREN IN FOSTER**
12 **CARE.**

13 (a) **REQUIREMENT FOR PROCEEDINGS.**—Section
14 475(5) of the Social Security Act (42 U.S.C. 675(5)) is
15 amended—

16 (1) by striking “and” at the end of subpara-
17 graph (C);

18 (2) by striking the period at the end of sub-
19 paragraph (D) and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(E) in the case of a child who has been
22 in foster care under the responsibility of the
23 State for 15 of the most recent 22 months, or,
24 if a court of competent jurisdiction has deter-
25 mined an infant to have been abandoned (as de-

1 fined under State law), or made a determina-
2 tion that the parent has committed murder of
3 another child of such parent, committed vol-
4 untary manslaughter of another child of such
5 parent, aided or abetted, attempted, conspired,
6 or solicited to commit such murder or voluntary
7 manslaughter, or committed a felony assault
8 that results in serious bodily injury to the sur-
9 viving child or to another child of such parent,
10 the State shall file a petition to terminate the
11 parental rights of the child's parents (or, if
12 such a petition has been filed by another party,
13 seek to be joined as a party to the petition),
14 and, concurrently, to identify, recruit, process,
15 and approve a qualified family for an adoption,
16 unless—

17 “(i) at the option of the State, the
18 child is being cared for by a relative;

19 “(ii) a State agency has documented a
20 compelling reason for determining that fil-
21 ing such a petition would not be in the
22 best interests of the child; or

23 “(iii) the State has not provided to
24 the family of the child, consistent with the
25 time period in the State case plan, such

1 services as the State deems necessary for
2 the safe return of the child to the child's
3 home, if reasonable efforts of the type de-
4 scribed in section 471(a)(15)(A)(i) are re-
5 quired to be made with respect to the
6 child.”.

7 (b) DETERMINATION OF BEGINNING OF FOSTER
8 CARE.—Section 475(5) of the Social Security Act (42
9 U.S.C. 675(5)), as amended by subsection (a), is amend-
10 ed—

11 (1) by striking “and” at the end of subpara-
12 graph (D);

13 (2) by striking the period at the end of sub-
14 paragraph (E) and inserting “; and”; and

15 (3) by adding at the end the following:

16 “(F) a child shall be considered to have en-
17 tered foster care on the earlier of—

18 “(i) the date of the first judicial find-
19 ing that the child has been subjected to
20 child abuse; or

21 “(ii) the date that is 60 days after the
22 date on which the child is removed from
23 the home.”.

24 (c) RULE OF CONSTRUCTION.—Nothing in part E of
25 title IV of the Social Security Act (42 U.S.C. 670 et seq.),

1 as amended by this Act, shall be construed as precluding
2 State courts or State agencies from initiating the termi-
3 nation of parental rights for reasons other than, or for
4 timelines earlier than, those specified in part E of title
5 IV of such Act, when such actions are determined to be
6 in the best interests of the child, including cases where
7 the child has experienced multiple foster care placements
8 of varying durations .

9 (d) EFFECTIVE DATES.—

10 (1) CHILDREN ENTERING FOSTER CARE AFTER
11 THE DATE OF ENACTMENT.—The amendments made
12 by this section shall apply to children entering foster
13 care under the responsibility of the State after the
14 date of enactment of this Act.

15 (2) CURRENT AND FORMER FOSTER CARE
16 CHILDREN.—The amendments made by subsection
17 (a) shall not apply to children in foster care under
18 the responsibility of the State on or before the date
19 of enactment of this Act until the date that is 3
20 years after the date of enactment of this Act, and,
21 on such date, shall then apply as though those chil-
22 dren first entered foster care on such date.

1 **SEC. 104. NOTICE OF REVIEWS AND HEARINGS; OPPOR-**
2 **TUNITY TO BE HEARD.**

3 Section 475(5) of the Social Security Act (42 U.S.C.
4 675(5)), as amended by section 103(b), is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (E);

7 (2) by striking the period at the end of sub-
8 paragraph (F) and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(G) the foster parents (if any) of a child
11 and any preadoptive parent or relative provid-
12 ing care for the child are provided with notice
13 of, and an opportunity to be heard in, any re-
14 view or hearing to be held with respect to the
15 child, except that this subparagraph shall not
16 be construed to require that any foster parent,
17 preadoptive parent, or relative providing care
18 for the child be made a party to such a review
19 or hearing solely on the basis of such notice and
20 opportunity to be heard.”.

21 **SEC. 105. USE OF THE FEDERAL PARENT LOCATOR SERV-**
22 **ICE FOR CHILD WELFARE SERVICES.**

23 Section 453 of the Social Security Act (42 U.S.C.
24 653), as amended by section 5534(a) of the Balanced
25 Budget Act of 1997, is amended—

26 (1) in subsection (a)(2)—

1 (A) in the matter preceding subparagraph
2 (A), by inserting “or making or enforcing child
3 custody or visitation orders,” after “obliga-
4 tions,”; and

5 (B) in subparagraph (A)—

6 (i) by striking “or” at the end of
7 clause (ii);

8 (ii) by striking the comma at the end
9 of clause (iii) and inserting “; or”; and

10 (iii) by inserting after clause (iii) the
11 following:

12 “(iv) who has or may have parental
13 rights with respect to a child,”; and

14 (2) in subsection (c)—

15 (A) by striking the period at the end of
16 paragraph (3) and inserting “; and”; and

17 (B) by adding at the end the following:

18 “(4) a State agency that is administering a pro-
19 gram operated under a State plan under subpart 1
20 of part B, or a State plan approved under subpart
21 2 of part B or under part E.”.

1 SEC. 106. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE
2 FOSTER AND ADOPTIVE PARENTS AND
3 GROUP CARE STAFF.

4 Section 471(a) of the Social Security Act (42 U.S.C.
5 671(a)), as amended by section 5591(b) of the Balanced
6 Budget Act of 1997, is amended—

7 (1) by striking “and” at the end of paragraph
8 (18);

9 (2) by striking the period at the end of para-
10 graph (19) and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(20) at the option of the State, provides proce-
13 dures for Federal and State criminal records checks
14 for any prospective foster or adoptive parent and
15 any other adults residing in the household of such
16 parent, and any employee of a residential child-care
17 institution before the foster parent or adoptive par-
18 ent, or the residential child-care institution may be
19 finally approved for placement of a child on whose
20 behalf foster care maintenance payments or adoption
21 assistance payments are to be made under the State
22 plan under this part, including procedures requiring
23 that in any case in which a record check reveals a
24 criminal conviction of child abuse or neglect, or of
25 spousal abuse, a criminal conviction for crimes
26 against children (including child pornography), or a

1 criminal conviction for a crime involving violence, in-
2 cluding rape, sexual or other physical assault, bat-
3 tery, or homicide, approval shall not be granted, and
4 that, with respect to drug-related offenses, if a State
5 finds that a court of competent jurisdiction has de-
6 termined that such an offense has been committed
7 within the past 5 years, approval shall not be grant-
8 ed.”.

9 **SEC. 107. DOCUMENTATION OF EFFORTS FOR ADOPTION**
10 **OR LOCATION OF A PERMANENT HOME.**

11 Section 475 of the Social Security Act (42 U.S.C.
12 675) is amended—

13 (1) in paragraph (1)—

14 (A) in the last sentence—

15 (i) by striking “the case plan must
16 also include”; and

17 (ii) by redesignating such sentence as
18 subparagraph (D) and indenting appro-
19 priately; and

20 (B) by adding at the end, the following:

21 “(E) In the case of a child with respect to
22 whom the State’s plan is adoption or placement
23 in another permanent home, documentation of
24 the steps the agency is taking to find an adop-
25 tive family or other permanent living arrange-

1 ment for the child, to place the child with an
2 adoptive family, a fit and willing relative, a
3 legal guardian, or in another planned perma-
4 nent living arrangement, and to finalize the
5 adoption or legal guardianship. At a minimum,
6 such documentation shall include child specific
7 recruitment efforts such as the use of State, re-
8 gional, and national adoption exchanges includ-
9 ing electronic exchange systems.”; and

10 (2) in paragraph (5)(B), by inserting “(includ-
11 ing the requirement specified in paragraph (1)(E))”
12 after “case plan”.

13 **TITLE II—INCENTIVES FOR PRO-**
14 **VIDING PERMANENT FAMI-**
15 **LIES FOR CHILDREN**

16 **SEC. 201. ADOPTION INCENTIVE PAYMENTS.**

17 (a) IN GENERAL.—Part E of title IV of the Social
18 Security Act (42 U.S.C. 670–679) is amended by inserting
19 after section 473 the following:

20 **“SEC. 473A. ADOPTION INCENTIVE PAYMENTS.**

21 “(a) GRANT AUTHORITY.—Subject to the availability
22 of such amounts as may be provided in advance in appro-
23 priations Acts for this purpose, the Secretary shall make
24 a grant to each State that is an incentive-eligible State
25 for a fiscal year in an amount equal to the adoption incen-

1 tive payment payable to the State for the fiscal year under
2 this section, which shall be payable in the immediately suc-
3 ceeding fiscal year.

4 “(b) INCENTIVE-ELIGIBLE STATE.—A State is an in-
5 centive-eligible State for a fiscal year if—

6 “(1) the State has a plan approved under this
7 part for the fiscal year;

8 “(2) the number of foster child adoptions in the
9 State during the fiscal year exceeds the base number
10 of foster child adoptions for the State for the fiscal
11 year;

12 “(3) the State is in compliance with subsection
13 (c) for the fiscal year;

14 “(4) the State provides health insurance cov-
15 erage to any child with special needs for whom there
16 is in effect an adoption assistance agreement be-
17 tween a State and an adoptive parent or parents;
18 and

19 “(5) the fiscal year is any of fiscal years 1998
20 through 2002.

21 “(c) DATA REQUIREMENTS.—

22 “(1) IN GENERAL.—A State is in compliance
23 with this subsection for a fiscal year if the State has
24 provided to the Secretary the data described in para-
25 graph (2) for fiscal year 1997 (or, if later, the fiscal

1 year that precedes the 1st fiscal year for which the
2 State seeks a grant under this section) and for each
3 succeeding fiscal year.

4 “(2) DETERMINATION OF NUMBERS OF ADOPT-
5 TIONS.—

6 “(A) DETERMINATIONS BASED ON AFCARS
7 DATA.—Except as provided in subparagraph
8 (B), the Secretary shall determine the numbers
9 of foster child adoptions and of special needs
10 adoptions in a State during each of fiscal years
11 1997 through 2002, for purposes of this sec-
12 tion, on the basis of data meeting the require-
13 ments of the system established pursuant to
14 section 479, as reported by the State and ap-
15 proved by the Secretary by August 1 of the suc-
16 ceeding fiscal year.

17 “(B) ALTERNATIVE DATA SOURCES PER-
18 MITTED FOR FISCAL YEAR 1997.—For purposes
19 of the determination described in subparagraph
20 (A) for fiscal year 1997, the Secretary may use
21 data from a source or sources other than that
22 specified in subparagraph (A) that the Sec-
23 retary finds to be of equivalent completeness
24 and reliability, as reported by a State by No-

1 vember 30, 1997, and approved by the Sec-
2 retary by March 1, 1998.

3 “(3) NO WAIVER OF AFCARS REQUIREMENTS.—

4 This section shall not be construed to alter or affect
5 any requirement of section 479 or any regulation
6 prescribed under such section with respect to report-
7 ing of data by States, or to waive any penalty for
8 failure to comply with the requirements.

9 “(d) ADOPTION INCENTIVE PAYMENT.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), the adoption incentive payment payable to
12 a State for a fiscal year under this section shall be
13 equal to the sum of—

14 “(A) \$4,000, multiplied by amount (if any)
15 by which the number of foster child adoptions
16 in the State during the fiscal year exceeds the
17 base number of foster child adoptions for the
18 State for the fiscal year; and

19 “(B) \$2,000, multiplied by the amount (if
20 any) by which the number of special needs
21 adoptions in the State during the fiscal year ex-
22 ceeds the base number of special needs adop-
23 tions for the State for the fiscal year.

24 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
25 FUNDS AVAILABLE.—For any fiscal year, if the total

1 amount of adoption incentive payments otherwise
2 payable under this section for a fiscal year exceeds
3 the amount appropriated for that fiscal year, the
4 amount of the adoption incentive payment payable to
5 each State under this section for the fiscal year shall
6 be—

7 “(A) the amount of the adoption incentive
8 payment that would otherwise be payable to the
9 State under this section for the fiscal year; mul-
10 tiplied by

11 “(B) the percentage represented by the
12 amount appropriated for that year, divided by
13 the total amount of adoption incentive pay-
14 ments otherwise payable under this section for
15 the fiscal year.

16 “(e) 2-YEAR AVAILABILITY OF INCENTIVE PAY-
17 MENTS.—Payments to a State under this section in a fis-
18 cal year shall remain available for use by the State
19 through the end of the succeeding fiscal year.

20 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
21 MENTS.—A State shall not expend an amount paid to the
22 State under this section except to provide to children or
23 families any service (including post-adoption services) that
24 may be provided under part B or E. Amounts expended
25 by a State in accordance with the preceding sentence shall

1 be disregarded in determining State expenditures for pur-
2 poses of Federal matching payments under section 474.

3 “(g) DEFINITIONS.—As used in this section:

4 “(1) FOSTER CHILD ADOPTION.—The term
5 ‘foster child adoption’ means the final adoption of a
6 child who, at the time of adoptive placement, was in
7 foster care under the supervision of the State.

8 “(2) SPECIAL NEEDS ADOPTION.—The term
9 ‘special needs adoption’ means the final adoption of
10 a child for whom an adoption assistance agreement
11 is in effect under section 473.

12 “(3) BASE NUMBER OF FOSTER CHILD ADOP-
13 TIONS.—The term ‘base number of foster child
14 adoptions for a State’ means—

15 “(A) with respect to fiscal year 1999, the
16 average number of foster child adoptions in the
17 State for fiscal years 1995, 1996, and 1997;
18 and

19 “(B) with respect to any subsequent fiscal
20 year, the number of foster child adoptions in
21 the State for the preceding fiscal year.

22 “(4) BASE NUMBER OF SPECIAL NEEDS ADOP-
23 TIONS.—The term ‘base number of special needs
24 adoptions for a State’ means—

1 “(A) with respect to fiscal year 1999, the
2 average number of special needs adoptions in
3 the State for fiscal years 1995, 1996, and
4 1997; and

5 “(B) with respect to any subsequent fiscal
6 year, the number of special needs adoptions in
7 the State for the preceding fiscal year.

8 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
9 PRIATIONS.—

10 “(1) IN GENERAL.—For grants under this sec-
11 tion, there is authorized to be appropriated to the
12 Secretary \$20,000,000 for each of fiscal years 1999
13 through 2003.

14 “(2) AVAILABILITY.—Amounts appropriated
15 under paragraph (1) are authorized to remain avail-
16 able until expended, but not after fiscal year 2003.

17 “(i) TECHNICAL ASSISTANCE.—The Secretary shall
18 provide, directly, or by grant, contract, or interagency
19 agreement, technical assistance upon request to assist
20 States and local communities to reach their targets for
21 increased numbers of adoptions.”.

22 (b) DISCRETIONARY CAP ADJUSTMENT FOR ADOP-
23 TION INCENTIVE PAYMENTS.—

24 (1) SECTION 251 AMENDMENT.—Section
25 251(b)(2) of the Balanced Budget and Emergency

1 Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as
2 amended by section 10203(a)(4) of the Balanced
3 Budget Act of 1997, is amended by adding at the
4 end the following new subparagraph:

5 “(G) ADOPTION INCENTIVE PAYMENTS.—

6 Whenever a bill or joint resolution making ap-
7 propriations for fiscal year 1999, 2000, 2001,
8 2002, or 2003 is enacted that specifies an
9 amount for adoption incentive payments for the
10 Department of Health and Human Services—

11 “(i) the adjustments for new budget
12 authority shall be the amounts of new
13 budget authority provided in that measure
14 for adoption incentive payments, but not to
15 exceed \$20,000,000; and

16 “(ii) the adjustment for outlays shall
17 be the additional outlays flowing from such
18 amount.”.

19 (2) SECTION 314 AMENDMENT.—Section 314(b)
20 of the Congressional Budget Act of 1974, as amend-
21 ed by section 10114(a) of the Balanced Budget Act
22 of 1997, is amended—

23 (A) by striking “or” at the end of para-
24 graph (4);

1 (B) by striking the period at the end of
2 paragraph (5) and inserting “; or”; and

3 (C) by adding at the end the following:

4 “(6) in the case of an amount for adoption in-
5 centive payments (as defined in section 251(b)(2)(G)
6 of the Balanced Budget and Emergency Deficit Con-
7 trol Act of 1985) for fiscal year 1999, 2000, 2001,
8 2002, or 2003 for the Department of Health and
9 Human Services, an amount not to exceed
10 \$20,000,000.”.

11 **SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURIS-**
12 **DICTIONS.**

13 Section 432 of the Social Security Act (42 U.S.C.
14 629b) is amended—

15 (1) in paragraph (7)(B), by striking “and” at
16 the end;

17 (2) by redesignating paragraph (8) as para-
18 graph (9); and

19 (3) by inserting after paragraph (7), the follow-
20 ing:

21 “(8) contains assurances that the State shall
22 develop plans for the effective use of cross-jurisdic-
23 tional resources to facilitate timely permanent place-
24 ments for waiting children; and”.

1 SEC. 203. PERFORMANCE OF STATES IN PROTECTING CHIL-
2 DREN.

3 (a) ANNUAL REPORT ON STATE PERFORMANCE.—

4 The Secretary of Health and Human Services, in consulta-
5 tion with the American Public Welfare Association, the
6 National Governors' Association, and persons or organiza-
7 tions devoted to child advocacy, shall—

8 (1) develop a set of outcome measures (includ-
9 ing length of stay in foster care, number of foster
10 care placements, and number of adoptions) that can
11 be used to assess the performance of States in oper-
12 ating child protection and child welfare programs
13 pursuant to parts B and E of title IV of the Social
14 Security Act to ensure the safety of children;

15 (2) to the maximum extent possible, the out-
16 come measures should be developed from data avail-
17 able from the Adoption and Foster Care Analysis
18 and Reporting System;

19 (3) develop a system for rating the performance
20 of States with respect to the outcome measures, and
21 provide to the States an explanation of the rating
22 system and how scores are determined under the
23 rating system;

24 (4) prescribe such regulations as may be nec-
25 essary to ensure that States provide to the Secretary
26 the data necessary to determine State performance

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1 with respect to each outcome measure, as a condi-
2 tion of the State receiving funds under part E of
3 title IV of the Social Security Act;

4 (5) on May 1, 1999, and annually thereafter,
5 prepare and submit to the Congress a report on the
6 performance of each State on each outcome meas-
7 ure, which shall examine the reasons for high per-
8 formance and low performance and, where possible,
9 make recommendations as to how State performance
10 could be improved.

11 (b) DEVELOPMENT OF PERFORMANCE-BASED IN-
12 CENTIVE SYSTEM.—The Secretary of Health and Human
13 Services, in consultation with State and local public offi-
14 cials responsible for administering child welfare programs
15 and child welfare advocates, shall develop and recommend
16 to Congress a proposal ^{based on performance} to restructure financing of the pro-
17 gram and payments under parts B and E of title IV of
18 the Social Security Act (42 U.S.C. 620 et seq., 670 et
19 seq.). Such a proposal may include an incentive system
20 to provide such payments to any State based on such
21 State's performance under such a system. Such system
22 shall, to the extent the Secretary determines feasible and
23 appropriate, be based on the annual report developed ^{required}
24 under subsection (a) or on any proposed modifications of
25 such annual report. Not later than 24 months after the

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1 date of enactment of this Act, the Secretary shall report
2 on the new system to the Committee on Ways and Means
3 of the House of Representatives and the Committee on
4 Finance of the Senate.

5 **TITLE III—ADDITIONAL**
6 **IMPROVEMENTS AND REFORMS**

7 **SEC. 301. AUTHORITY TO APPROVE MORE CHILD PROTEC-**
8 **TION DEMONSTRATION PROJECTS.**

9 Section 1130(a) of the Social Security Act (42 U.S.C.
10 1320a-9(a)) is amended—

- 11 (1) by striking “10” and inserting “20”; and
- 12 (2) by adding at the end the following: “At
13 least 1 of the demonstration projects approved on or
14 after October 1, 1997, shall address kinship care.”.

15 **SEC. 302. PERMANENCY HEARINGS.**

16 Section 475(5)(C) of the Social Security Act (42
17 U.S.C. 675(5)(C)) is amended—

- 18 (1) by striking “dispositional” and inserting
19 “permanency”;
- 20 (2) by striking “eighteen” and inserting “12”;
- 21 (3) by striking “original placement” and insert-
22 ing “date the child is considered to have entered fos-
23 ter care (as determined under subparagraph (F))”;
- 24 and



1 (4) by striking “future status of” and all that
2 follows through “long term basis)” and inserting
3 “permanency plan for the child that includes wheth-
4 er, and if applicable when, the child will be returned
5 to the parent, placed for adoption and the State will
6 file a petition for termination of parental rights, or
7 referred for legal guardianship or custody, or (in
8 cases where the State agency has documented to the
9 State court a compelling reason for determining that
10 it would not be in the best interests of the child to
11 return home, be referred for termination of parental
12 rights, or be placed for adoption, with a qualified
13 relative, or with a legal guardian) placed in another
14 planned permanent living arrangement”.

15 **SEC. 303. KINSHIP CARE.**

16 (a) **REPORT.—**

17 (1) **IN GENERAL.—**The Secretary of Health and
18 Human Services shall—

19 (A) not later than June 1, 1998, convene
20 the advisory panel provided for in subsection
21 (b)(1) and prepare and submit to the advisory
22 panel an initial report on the extent to which
23 children in foster care are placed in the care of
24 a relative (in this section referred to as “kin-
25 ship care”); and

1 (B) not later than June 1, 1999, submit to
2 the Committee on Ways and Means of the
3 House of Representatives and the Committee
4 on Finance of the Senate a final report on the
5 matter described in subparagraph (A), which
6 shall—

7 (i) be based on the comments submit-
8 ted by the advisory panel pursuant to sub-
9 section (b)(2) and other information and
10 considerations; and

11 (ii) include the policy recommenda-
12 tions of the Secretary with respect to the
13 matter.

14 (2) REQUIRED CONTENTS.—Each report re-
15 quired by paragraph (1) shall—

16 (A) include, to the extent available for each
17 State, information on—

18 (i) the policy of the State regarding
19 kinship care;

20 (ii) the characteristics of the kinship
21 care providers (including age, income, eth-
22 nicity, and race, and the relationship of the
23 kinship care providers to the children);

24 (iii) the characteristics of the house-
25 hold of such providers (such as number of

1 other persons in the household and family
2 composition);

3 (iv) how much access to the child is
4 afforded to the parent from whom the
5 child has been removed;

6 (v) the cost of, and source of funds
7 for, kinship care (including any subsidies
8 such as medicaid and cash assistance);

9 (vi) the permanency plan for the child
10 and the actions being taken by the State to
11 achieve the plan;

12 (vii) the services being provided to the
13 parent from whom the child has been re-
14 moved; and

15 (viii) the services being provided to
16 the kinship care provider; and

17 (B) specifically note the circumstances or
18 conditions under which children enter kinship
19 care.

20 (b) ADVISORY PANEL.—

21 (1) ESTABLISHMENT.—The Secretary of Health
22 and Human Services, in consultation with the Chair-
23 man of the Committee on Ways and Means of the
24 House of Representatives and the Chairman of the
25 Committee on Finance of the Senate, shall convene

1 an advisory panel which shall include parents, foster
2 parents, relative caregivers, former foster children,
3 State and local public officials responsible for admin-
4 istering child welfare programs, private persons in-
5 volved in the delivery of child welfare services, rep-
6 resentatives of tribal governments and tribal courts,
7 judges, and academic experts.

8 (2) DUTIES.—The advisory panel convened pur-
9 suant to paragraph (1) shall review the report pre-
10 pared pursuant to subsection (a), and, not later than
11 October 1, 1998, submit to the Secretary comments
12 on the report.

13 **SEC. 304. CLARIFICATION OF ELIGIBLE POPULATION FOR**
14 **INDEPENDENT LIVING SERVICES.**

15 Section 477(a)(2)(A) of the Social Security Act (42
16 U.S.C. 677(a)(2)(A)) is amended by inserting “(including
17 children with respect to whom such payments are no
18 longer being made because the child has accumulated as-
19 sets, not to exceed \$5,000, which are otherwise regarded
20 as resources for purposes of determining eligibility for
21 benefits under this part)” before the comma.

22 **SEC. 305. REAUTHORIZATION AND EXPANSION OF FAMILY**
23 **PRESERVATION AND SUPPORT SERVICES.**

24 (a) REAUTHORIZATION OF FAMILY PRESERVATION
25 AND SUPPORT SERVICES.—

1 (1) IN GENERAL.—Section 430(b) of the Social
2 Security Act (42 U.S.C. 629(b)) is amended—

3 (A) in paragraph (4), by striking “or” at
4 the end;

5 (B) in paragraph (5), by striking the pe-
6 riod and inserting a semicolon; and

7 (C) by adding at the end the following:

8 “(6) for fiscal year 1999, \$275,000,000;

9 “(7) for fiscal year 2000, \$295,000,000; and

10 “(8) for fiscal year 2001, \$305,000,000.”.

11 (2) CONTINUATION OF RESERVATION OF CER-
12 TAIN AMOUNTS.—Paragraphs (1) and (2) of section
13 430(d) of the Social Security Act (42 U.S.C. 630(d))
14 are each amended by striking “and 1998” and in-
15 serting “1998, 1999, 2000, and 2001”.

16 (3) CONFORMING AMENDMENTS.—Section
17 13712 of the Omnibus Budget Reconciliation Act of
18 1993 (42 U.S.C. 670 note) is amended—

19 (A) in subsection (c), by striking “1998”
20 each place it appears and inserting “2001”; and

21 (B) in subsection (d)(2), by striking “and
22 1998” and inserting “1998, 1999, 2000, and
23 2001”.

24 (b) EXPANSION FOR ADOPTION PROMOTION AND
25 SUPPORT SERVICES.—

1 (1) ADDITIONS TO STATE PLAN; MINIMUM
 2 SPENDING REQUIREMENTS.—Section 432 of the So-
 3 cial Security Act (42 U.S.C. 629b) is amended—

4 (A) in subsection (a)—

5 (i) in paragraph (4), by striking “and
 6 community-based family support services”
 7 and inserting “, community-based family
 8 support services, and adoption promotion
 9 and support services,”; and

*am.
 serv. services*

10 (ii) in paragraph (5)(A), by striking
 11 “and community-based family support
 12 services” and inserting “, community-based
 13 family support services, and adoption pro-
 14 motion and support services”; and

15 (B) in subsection (b)(1), by striking “and
 16 family support” and inserting “, family sup-
 17 port, and adoption promotion and support”.

18 (2) DEFINITION OF ADOPTION PROMOTION AND
 19 SUPPORT SERVICES.—Section 431(a) of the Social
 20 Security Act (42 U.S.C. 629a(a)) is amended by
 21 adding at the end the following:

22 “(7) ADOPTION PROMOTION AND SUPPORT
 23 SERVICES.—The term ‘adoption promotion and sup-
 24 port services’ means services and activities designed
 25 to encourage more adoptions out of the foster care

1 system, when adoptions promote the best interests of
2 children.”.

3 (3) ADDITIONAL CONFORMING AMENDMENTS.—

4 (A) PURPOSES.—Section 430(a) of the So-
5 cial Security Act (42 U.S.C. 629(a)) is amend-
6 ed by striking “and community-based family
7 support services” and inserting “, community-
8 based family support services, and adoption
9 promotion and support services”.

10 (B) EVALUATIONS.—Subparagraphs (B)
11 and (C) of section 435(a)(2) of the Social Secu-
12 rity Act (42 U.S.C. 629d(a)(2)) are each
13 amended by striking “and family support” each
14 place it appears and inserting “, family support,
15 and adoption promotion and support”.

16 (C) PROGRAM TITLE.—The heading of
17 subpart 2 of part B of title IV of the Social Se-
18 curity Act (42 U.S.C. 629 et seq.) is amended
19 to read as follows:

20 **“Subpart 2—Promoting Safe and Stable Families”.**

21 (c) EMPHASIZING THE SAFETY OF THE CHILD.—

open.

22 (1) REQUIRING ASSURANCES THAT THE SAFETY
23 OF CHILDREN SHALL BE OF PARAMOUNT CON-
24 CERN.—Section 432 of the Social Security Act (42

1 U.S.C. 629b), as amended by section 202, is amend-
2 ed—

3 (A) in paragraph (8), by striking “and” at
4 the end;

5 (B) by redesignating paragraph (9) as
6 paragraph (10); and

7 (C) by inserting after paragraph (8), the
8 following:

9 “(9) contains assurances that in administering
10 and conducting service programs under the plan, the
11 safety of the children to be served shall be of para-
12 mount concern; and”.

13 (2) DEFINITIONS OF FAMILY PRESERVATION
14 AND FAMILY SUPPORT SERVICES.—Section 431(a) of
15 the Social Security Act (42 U.S.C. 629a(a)) is
16 amended—

17 (A) in paragraph (1)—

18 (i) in subparagraph (A), by inserting
19 “safe and” before “appropriate” each place
20 it appears; and

21 (ii) in subparagraph (B), by inserting
22 “safely” after “remain”; and

23 (B) in paragraph (2)—

24 (i) by inserting “safety and” before
25 “well-being”; and

1 (ii) by striking "stable" and inserting
2 "safe, stable,".

3 (d) CLARIFICATION OF MAINTENANCE OF EFFORT
4 REQUIREMENT.—

5 (1) DEFINITION OF NON-FEDERAL FUNDS.—

6 Section 431(a) of the Social Security Act (42 U.S.C.
7 629a(a)), as amended by subsection (b)(2), is
8 amended by adding at the end the following:

9 "(8) NON-FEDERAL FUNDS.—The term 'non-
10 Federal funds' means State funds, or at the option
11 of a State, State and local funds."

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) takes effect as if included in the
14 enactment of section 13711 of the Omnibus Budget
15 Reconciliation Act of 1993 (Public Law 103-33; 107
16 Stat. 649).

17 SEC. 306. HEALTH INSURANCE COVERAGE FOR CHILDREN
18 WITH SPECIAL NEEDS.

19 Section 471(a) of the Social Security Act (42 U.S.C.
20 671(a)), as amended by section 106, is amended—

21 (1) in paragraph (19), by striking "and" at the
22 end;

23 (2) in paragraph (20), by striking the period
24 and inserting "; and"; and

25 (3) by adding at the end the following:

*Add Medicaid
or
SEP
category*

1 “(21) provides for health insurance coverage for
2 any child who has been determined to be a child
3 with special needs, for whom there is in effect an
4 adoption assistance agreement (other than an agree-
5 ment under this part) between the State and an
6 adoptive parent or parents, and who the State has
7 determined cannot be placed with an adoptive parent
8 or parents without medical assistance because such
9 child has special needs for medical, mental health, or
10 rehabilitative care, and that with respect to the pro-
11 vision of such health insurance coverage—

12 “(A) such coverage may be provided
13 through 1 or more State medical assistance pro-
14 grams;

15 “(B) the State, in providing such coverage,
16 shall ensure that the medical benefits, including
17 mental health benefits, provided are of the same
18 type and kind as those that would be provided
19 for children by the State under title XIX;

20 “(C) in the event that the State provides
21 such coverage through a State medical assist-
22 ance program other than the program under
23 title XIX, and the State exceeds its funding for
24 services under such other program, any such
25 child shall be deemed to be receiving aid or as-

1 sistance under the State plan under this part
 2 for purposes of section 1902(a)(10)(A)(i)(I);
 3 and

4 “(D) in determining cost-sharing require-
 5 ments, the State shall take into consideration
 6 the circumstances of the adopting parent or
 7 parents and the needs of the child being adopt-
 8 ed.”.

9 **SEC. 307. CONTINUATION OF ELIGIBILITY FOR ADOPTION**
 10 **ASSISTANCE PAYMENTS ON BEHALF OF CHIL-**
 11 **DREN WITH SPECIAL NEEDS WHOSE INITIAL**
 12 **ADOPTION HAS BEEN DISRUPTED.**

13 [*Note: Technical administration changes to be sup-*
 14 plied] (a) CONTINUATION OF ELIGIBILITY.—Section
 15 473(a)(2) of the Social Security Act (42 U.S.C. 673(a)(2))
 16 is amended by adding at the end the following: “Any child
 17 who has been determined to meet the requirements of sub-
 18 paragraph (C), ~~and who has previously been~~^{was} determined
 19 eligible for adoption assistance payments under paragraph
 20 (1)(B)(ii), who has again become available for adoption
 21 because a court has set aside the child’s previous adoption
 22 or the child’s adoptive parents have died, and who fails
 23 to meet the requirements of subparagraphs (A) and (B)
 24 but would meet such requirements if the child were treated
 25 as if the child were in the same financial and other cir-

*him
 will
 make
 some
 clarifying
 changes*

1 cumstances the child was in the last time the child was
 2 determined eligible for adoption assistance payments and
 3 the previous adoption were treated as having never oc-
 4 curred, shall be treated as meeting the requirements of
 5 this paragraph for purposes of paragraph (1)(B)(ii).”.

6 (b) APPLICABILITY.—The amendment made by sub-
 7 section (a) shall only apply to children who become avail-
 8 able for adoption because a court has set aside the child’s
 9 previous adoption, or the child’s adoptive parents have
 10 died, and whose subsequent adoption occurs on or after
 11 October 1, 1997.

724
 pg 52 line
 8
 308

12 SEC. 308. TECHNICAL ASSISTANCE.

13 (a) IN GENERAL.—The Secretary of Health and
 14 Human Services may, directly or through grants or con-
 15 tracts, provide technical assistance to assist States and
 16 local communities to reach their targets for increased
 17 numbers of adoptions and, to the extent that adoption is
 18 not possible, alternative permanent placements, for chil-
 19 dren in foster care.

20 (b) LIMITATIONS.—The technical assistance provided
 21 under subsection (a) shall support the goal of encouraging
 22 more adoptions out of the foster care system, when adop-
 23 tions promote the best interests of children, and shall in-
 24 clude the following:

1 (1) The development of best practice guidelines
2 for expediting termination of parental rights.

3 (2) Models to encourage the use of concurrent
4 planning.

5 (3) The development of specialized units and
6 expertise in moving children toward adoption as a
7 permanency goal.

8 (4) The development of risk assessment tools to
9 facilitate early identification of the children who will
10 be at risk of harm if returned home.

11 (5) Models to encourage the fast tracking of
12 children who have not attained 1 year of age into
13 pre-adoptive placements.

14 (6) Development of programs that place chil-
15 dren into pre-adoptive families without waiting for
16 termination of parental rights.

17 (c) LIMITATIONS ON AUTHORIZATION OF APPRO-
18 PRIATIONS.—To carry out this section, there are author-
19 ized to be appropriated to the Secretary of Health and
20 Human Services not to exceed \$10,000,000 for each of
21 fiscal years 1998 through 2000.

22 **TITLE IV—MISCELLANEOUS**

23 **SEC. 401. PRESERVATION OF REASONABLE PARENTING.**

24 Nothing in this Act is intended to disrupt the family
25 unnecessarily or to intrude inappropriately into family life,

1 to prohibit the use of reasonable methods of parental dis-
2 cipline, or to prescribe a particular method of parenting.

3 **SEC. 402. REPORTING REQUIREMENTS.**

4 Any information required to be reported under this
5 Act shall be supplied to the Secretary of Health and
6 Human Services through data meeting the requirements
7 of the Adoption and Foster Care Analysis and Reporting
8 System established pursuant to section 479 of the Social
9 Security Act (42 U.S.C. 679), to the extent such data is
10 available under that system. The Secretary shall make
11 such modifications to regulations issued under section 479
12 of such Act with respect to the Adoption and Foster Care
13 Analysis and Reporting System as may be necessary to
14 allow States to obtain data that meets the requirements
15 of such system in order to satisfy the reporting require-
16 ments of this Act.

17 **SEC. 403. SENSE OF CONGRESS REGARDING STANDBY**
18 **GUARDIANSHIP.**

19 It is the sense of Congress that the States should
20 have in effect laws and procedures that permit any parent
21 who is chronically ill or near death, without surrendering
22 parental rights, to designate a standby guardian for the
23 parent's minor children, whose authority would take effect
24 upon—

25 (1) the death of the parent;

1 (2) the mental incapacity of the parent; or

2 (3) the physical debilitation and consent of the
3 parent.

4 **SEC. 404. REDUCTION IN MEDICAID MATCHING RATE FOR**
5 **SKILLED PROFESSIONAL MEDICAL PERSON-**
6 **NEL.**

7 (a) **IN GENERAL.**—Section 1903(a)(2)(A) of the So-
8 cial Security Act (42 U.S.C. 1396b(a)(2)(A)) is amended
9 by striking “75” and inserting “73”.

only during FY 98-2003

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 subsection (a) shall apply to expenditures incurred on and
12 after October 1, 1997.

13 **SEC. 405. COORDINATION OF SUBSTANCE ABUSE AND**
14 **CHILD PROTECTION SERVICES.**

15 Within 1 year after the date of the enactment of this
16 Act, the Secretary of Health and Human Services, based
17 on information from the Substance Abuse and Mental
18 Health Services Administration and the Administration
19 for Children and Families in the Department of Health
20 of Human Services, shall prepare and submit to the Com-
21 mittee on Ways and Means of the House of Representa-
22 tives and the Committee on Finance of the Senate a report
23 which describes the extent and scope of the problem of
24 substance abuse in the child welfare population, the types
25 of services provided to such population, and the outcomes

1 resulting from the provision of such services to such popu-
2 lation. The report shall include recommendations for any
3 legislation that may be needed to improve coordination in
4 providing such services to such population.

5 **SEC. 406. PURCHASE OF AMERICAN-MADE EQUIPMENT AND**
6 **PRODUCTS.**

7 (a) **IN GENERAL.**—It is the sense of the Congress
8 that, to the greatest extent practicable, all equipment and
9 products purchased with funds made available under this
10 Act should be American-made.

11 (b) **NOTICE REQUIREMENT.**—In providing financial
12 assistance to, or entering into any contract with, any en-
13 tity using funds made available under this Act, the head
14 of each Federal agency, to the greatest extent practicable,
15 shall provide to such entity a notice describing the state-
16 ment made in subsection (a) by the Congress.

17 **TITLE V—EFFECTIVE DATE**

18 **SEC. 501. EFFECTIVE DATE.**

19 (a) **IN GENERAL.**—Except as otherwise provided in
20 this Act, the amendments made by this Act take effect
21 on the date of enactment of this Act.

22 (b) **DELAY PERMITTED IF STATE LEGISLATION RE-**
23 **QUIRED.**—In the case of a State plan under part B or
24 E of title IV of the Social Security Act which the Secretary
25 of Health and Human Services determines requires State

1 legislation (other than legislation appropriating funds) in
2 order for the plan to meet the additional requirements im-
3 posed by the amendments made by this Act, the State plan
4 shall not be regarded as failing to comply with the require-
5 ments of such part solely on the basis of the failure of
6 the plan to meet such additional requirements before the
7 first day of the first calendar quarter beginning after the
8 close of the first regular session of the State legislature
9 that begins after the date of enactment of this Act. For
10 purposes of the previous sentence, in the case of a State
11 that has a 2-year legislative session, each year of such ses-
12 sion shall be deemed to be a separate regular session of
13 the State legislature.

Adoption -
Legislative

Elena,
fyi
Nicole

To Adoption Groupies

From Mary

We actually seem to be all ready to go. The plan is for the bill, as amended, to be considered by the House around 11 tomorrow, then sent back over the Senate to be passed again -- at which point it would be ready for the President. Keep your fingers crossed that nothing happens between now and then.

Here are hopefully final drafts of (1) a one page summary, (2) CBO scoring; (3) a longer summary and (4) a conference report type document that will be inserted in the Congressional Record. I have yet another version of the bill text, but I'd rather not have to fax it all around again.

In addition, the House side folks - Camp/Kennelly/Shaw and Levin are having a press conference on this tomorrow at 10 AM. We'll have final copies of all these documents tomorrow AM.

Thanks

26

11/12, 5 pm

DRAFT

Adoption and Safe Families Act of 1997
November 13, 1997

This bill will protect children's health and safety, move children out of foster care faster, increase adoptions and support adoptive families.

Reasonable Efforts. The requirement that States make "reasonable efforts" to preserve and reunite families that have maltreated their children is rewritten to ensure that such efforts make the health and safety of the child paramount. States are not required to make efforts to keep families together in cases of "aggravated circumstances" (such as abandonment, torture, chronic abuse, and sexual abuse) or murder or assault of another of their children. States are required to make reasonable efforts to place the child for adoption or with a legal guardian in a timely manner.

Termination of Parental Rights (TPR). States must initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months, except in specified circumstances.

Adoption Incentive Payments. \$20 million is authorized for each of 5 years (FY 1999-2003) for bonus payments to states that increase adoptions of foster children above prior levels. Incentive payments equal \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for a total of \$6,000 per special needs adoption.

State Report Cards. The Secretary will annually rate State performance on a number of factors including the number of adoptions and length of stay in foster care.

Reauthorization and Renaming of the Family Preservation Program. This capped entitlement grant program to the States is substantially revised and reauthorized for 3 years. The goals of the program are expanded to include time-limited family reunification and adoption promotion. The 3-year total reauthorization of funding is \$875 million, \$65 million in outlays above the current funding level.

Health Care Coverage for Adopted Children with Special Needs. States are required to provide health insurance coverage for any child with an adoption assistance agreement who has special needs and who the State has determined would not be adopted without medical assistance.

Eligibility for Adoption Assistance in Cases of Dissolved Adoptions. Children with special needs will no longer lose their eligibility for federally subsidized adoption agreements because their adoption dissolves or their adoptive parents die.

Child Welfare Demonstration Projects. HHS is permitted to approve up to 10 additional child welfare and foster care demonstration projects each year.

Adoptions Across Geographic Lines. States may not postpone or deny adoption while looking for an in-state placement when a suitable out-of-state adoption is possible.

Criminal Record Checks. States are required to make criminal records checks for prospective foster or adoptive parents. States could opt out of this provision through written notice from the Governor or through state law.

Technical Assistance to Promote Adoption. The legislation authorizes \$10 million per year for 3 years for the Secretary of HHS to provide technical assistance to the states to promote adoption, half of which must be used to help courts facilitate permanent placements.

NOV-12-97 10:43 AM

HR867_2.WK4

11/12/97

05:18 PM

CBO Estimate of H.R. 867

Based on language received Nov. 12, 1997.

Adoption and Safe Families Act of 1997

PRELIMINARY—This estimate has not been reviewed by the Director of CBO.

(millions of dollars)

11/12/97

Direct spending

	1998	1999	2000	2001	2002	'98-'02
Sec. 101						
Clarification of the reasonable efforts requirement						
Foster care and adoption assistance						
BA	-2	-3	-5	-5	-5	-20
OT	-2	-3	-5	-5	-5	-20
Sec. 103						
States required to initiate termination of parental rights for certain children in foster care						
Foster care and adoption assistance						
BA	0	*	-3	-5	-8	-15
OT	0	*	-3	-5	-8	-15
Sec. 305						
Reauthorization and expansion of Family Preservation and Support						
Family Preservation and Support						
BA	0	12	24	26	18	80
OT	0	4	14	23	23	65
Sec. 306						
Health Insurance Coverage for Children with Special Needs						
Medicaid						
BA	1	1	1	1	1	5
OT	1	1	1	1	1	5
Sec. 307						
Continuation of Eligibility for Adoption Assistance Payments on Behalf of Children with Special Needs Whose Initial Adoption Has Been Disrupted						
Foster care and adoption assistance						
BA	0	1	1	2	2	6
OT	0	1	1	2	2	6
Sec. 404						
Temporary Adjustment of Contingency Fund for State Welfare Programs						
Contingency fund						
BA	-2	-9	-16	-13	0	-40
OT	0	-2	-9	-16	-13	-40
Total Direct Spending						
BA	-3	2	2	6	8	14
OT	-1	0	-0	-0	0	-1

Authorizations of Appropriations with Cap Adjustment

Sec. 201

Adoption Incentive Payments

BA	0	20	20	20	20	80
OT	0	12	4	8	1	25

Notes:

Asterisks denote less than \$500,000.

Components may not add to sums due to rounding.

11/12/97

DRAFT

**Summary of Major Provisions in H.Res. _____
Amending H.R. 867, the Adoption and Safe Families Act of 1997
November 13, 1997**

Title I: Reasonable Efforts and Child Safety Provisions

Child Health and Safety Paramount. In determining and making reasonable efforts on behalf of a child, the legislation specifies that the child's health and safety must be of paramount concern.

"Reasonable Efforts" to Preserve and Reunify Families. States continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement does not apply in cases in which a court has found that:

- ▶ a child has been subjected to "aggravated circumstances" as defined in state law (including, but not necessarily limited to, abandonment, torture, chronic abuse, and sexual abuse);
- ▶ a parent has killed another of their children or has assaulted the child or another of their children; or
- ▶ a parent's rights to a sibling have been involuntarily terminated.

In these cases, states would not be required to make reasonable efforts to preserve or reunify the family but are required to hold a permanency hearing within 30 days and to make reasonable efforts to place the child for adoption, with a legal guardian, or other placement specified in the plan.

Reasonable efforts to place a child for adoption or with a legal guardian could be made concurrently with reasonable efforts to preserve or reunify the family.

Documentation of Efforts to Adopt. For every child whose permanency plan is adoption or placement in another permanent home, states are required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, a fit and willing relative, a legal guardian, or in another planned living arrangement; and to finalize the adoption or legal guardianship. The documentation must include child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems.

Termination of Parental Rights. In the case of (1) a child who has been in foster care for 15 of the most recent 22 months; (2) a child who the court has determined to be an abandoned infant (as defined in state law); or (3) a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states are required to file a petition (or join any existing petition) to terminate parental rights and, concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

- ▶ at the option of the state, the child is being cared for by a relative;
- ▶ a state agency has documented in the case plan (available for court review) a compelling reason that filing such a petition would not be in the best interests of the child; or
- ▶ the state has not provided to the family of the child consistent with the time period in the case plan such services as the state deems necessary for the safe return of the child (in cases where reasonable efforts to reunify the family have been required).

With regard to children who enter foster care after the date of enactment, states are required to comply with this provision when any such child has been in care for 15 of the most recent 22 months, but no later than three months after the end of the first regular session of the state's legislature that begins after the date of enactment. With regard to children in foster care on the date of enactment, this provision is phased in according to the following schedule: states would be required to comply with this provision for one-third of the children in foster care on the date of enactment by no later than 6 months after the end of the first legislative session, giving priority to children with permanency plans of adoption and children who have been in foster care the longest; states would be required to comply with this provision for two-thirds of the children in foster care on the date of enactment no later than 12 months after the end of the first legislative session; finally, states must be in full compliance for all children in foster care on the date of enactment by no later than 18 months after the end of the first legislative session.

Nothing precludes state courts or state agencies from filing for termination of parental rights earlier than 15 months or for reasons other than those mentioned here.

Criminal Record Checks. States are required to provide procedures for criminal records checks for any prospective foster or adoptive parents, before the parents are finally approved for placement of a child eligible for federal subsidies. In any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide), approval could not be granted. In any case of a felony conviction for physical assault, battery, or a drug-related offense, that was committed in the past 5 years, approval could not be granted. States could opt out of this provision through a written notification from the Governor to the Secretary, or through state law enacted by the legislature.

Quality Standards for Out-of-home Care. States are required to provide, no later than January 1, 1999, that the state will develop and implement standards to ensure that children in foster care placements in public or private agencies receive quality services that protect the safety and health of children.

Title II: Adoption Promotion Provisions

Adoption Incentive Payments. The Secretary of HHS is required to make adoption incentive payments to eligible states. An eligible state is one in which adoptions of foster

children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996.

Adoption incentive payments are \$4,000 for each adoption of a foster child above the base number, plus an additional \$2,000 for a total of \$6,000 per special needs adoption. For these incentive payments, \$20 million is authorized for each of FYs 1999 through 2003, and discretionary budget caps are adjusted to permit this additional spending without using regular appropriation funds. To be eligible to receive adoption incentive payments for FY2001 or FY2002, states are required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the state and the child's adoptive parents.

Technical Assistance to Promote Adoption. HHS is authorized to provide technical assistance to states and localities to promote adoption of foster children. The technical assistance can include guidelines for expediting termination of parental rights; encouraged use of concurrent planning; specialized units and expertise in moving children toward adoption; risk assessment tools for early identification of children at risk of harm if returned home; encouraged use of fast tracking for children under age 1 into pre-adoptive placements; and programs to place children into pre-adoptive placements prior to termination of parental rights. \$10 million is authorized for each of fiscal years 1998-2000, with at least half of these funds reserved for providing technical assistance to the courts.

Eligibility for Adoption Assistance in Cases of Dissolved Adoptions. Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, continue to be eligible for assistance under Title IV-E in a subsequent adoption. This provision applies only to children whose subsequent adoption occurs on or after October 1, 1997.

Health Care Coverage for Adopted Children with Special Needs. States are required to provide health insurance coverage for any child with special needs for whom there is an adoption assistance agreement between the state and the adoptive parents and who the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical, mental health, or rehabilitative care. Such health insurance coverage can be provided through one or more state medical assistance programs (including Medicaid).

Interjurisdictional Adoption. States are required to assure that the state will develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption. In addition, states are not eligible for federal Title IV-E payments if the Secretary finds that, after the date of enactment, a state with responsibility for handling the case has denied or delayed the placement of a child for adoption when an approved family was available outside the jurisdiction, or denied an opportunity for a fair hearing

to an individual whose allegation of a violation of this provision was denied by the state or not acted upon with reasonable promptness. The General Accounting Office is required to study and report to Congress on how to improve procedures and policies to facilitate timely adoptions across state and county lines.

Title III: System Accountability and Reform Provisions

Permanency Hearings. States are required to hold a first dispositional hearing within 12 months of the date the child is considered to have entered foster care, defined as the earlier of the date of the first judicial finding of child abuse or neglect, or 60 days after the child's removal from home. The hearing is renamed a "permanency" hearing, and its purpose is to determine the child's permanency plan, which could include the timetable for: returning home; being placed for adoption and the state would file a petition to terminate parental rights; being referred for legal guardianship; or (in cases in which the state agency has documented a compelling reason why it would not be in the child's best interest to return home, be referred for termination of parental rights, or be placed for adoption, with a fit or willing relative, or with a legal guardian) being placed in another planned, permanent living arrangement.

Participation in Case Reviews and Hearings. Foster and preadoptive parents or relatives providing care for a child are to be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision is not to be construed to require that any foster or preadoptive parent or relative be made a party to such a review or hearing, solely on the basis of receiving notice and an opportunity to be heard.

Performance Measures for State Child Welfare Programs. The Secretary of HHS (in conjunction with Governors, state legislatures, state and local public officials responsible for administering child welfare programs, and child advocates) must develop outcome measures to assess state child welfare programs, and rate state performance according to these measures. HHS must submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report is due on May 1, 1999. Outcome measures include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, are to be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS).

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E, based (to the extent feasible) on the annual reports required by this provision. No later than 6 months after enactment, the Secretary would report to Congress on the feasibility of conducting a study, and would submit a final report on a performance-based incentive system no later than 15 months after enactment.

Child Welfare Demonstrations. The Secretary is authorized to conduct up to 10

demonstration programs in each of FYs 1998 through 2002 that are likely to promote the objectives of the national foster care and adoption programs. The Secretary must consider applications designed to identify and address barriers resulting in delays in adoptive placements for foster children, identify and address parental substance abuse problems that endanger children and result in foster care placements, and address kinship care. In addition, demonstrations could be approved only for those states providing health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between the state and an adoptive parent or parents. The Secretary in approving demonstrations shall take into consideration the effect of the demonstration on any court orders in the state for violations of federal requirements under Title IV-B or IV-E or the U.S. Constitution.

Title IV: Additional Provisions

Reauthorization and Renaming of the Family Preservation Program. The family preservation and family support program (renamed "Promoting Safe and Stable Families") is reauthorized through FY2001 at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. Existing allocation formula provisions, including a 1% reserve for Indian tribes, remain intact. Set-asides for court improvement grants and for evaluation and research are also reauthorized.

States are required to devote significant portions of their expenditures (after spending no more than 10% of their allotment for administrative costs) to each of the following 4 categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services. Time-limited family reunification services are defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than the 15 month period beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities would be counseling, substance abuse treatment, mental health services, assistance to address domestic violence, temporary child care services, and transportation. Adoption promotion and support services would be defined as pre- and post-adoption services and activities designed to expedite the adoption process and support adoptive families.

State plans are required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern.

Kinship Care Report. The Secretary of HHS is required to convene an advisory panel on kinship care, and submit an initial report to the advisory panel on the extent to which foster children are placed with relatives, no later than June 1, 1998. The advisory panel will review the Secretary's initial report and submit comments by October 1, 1998. Based on these comments and other information, the Secretary will submit a final report, by June 1, 1999, to the Committees on Ways and Means and Finance, containing recommendations.

Federal Parent Locator Service. Child welfare agencies are authorized to use the Federal Parent Locator Service to assist in locating absent parents.

Coordination of Substance Abuse and Child Protection Services. The Secretary of HHS is required to submit a report to the Committees on Ways and Means and Finance on the outcomes of substance abuse services. This report must be based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children and Families within HHS. The report, which is due within 1 year of enactment, should include legislative recommendations.

Eligibility for Independent Living Services. The primary target population for independent living services is revised to include children who are no longer eligible for federal foster care subsidies under Title IV-E, because they have accumulated assets of up to \$5,000.

Standby Guardianship. It is the sense of Congress that states should have laws and procedures permitting a parent who is chronically ill or near death to designate a standby guardian for their minor child, without surrendering their own parental rights. The standby guardian's authority would take effect upon the parent's death, mental incapacity, or physical debilitation and consent.

Purchase of American-made Equipment. It is the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption and Safe Families Act should be American-made.

Preservation of Reasonable Parenting. Specifies that nothing in this legislation is intended to disrupt the family unnecessarily or intrude inappropriately into family life, or prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

Use of AFCARS Data. Any information required to be reported by this legislation would be supplied through AFCARS, to the extent available. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by this legislation.

Temporary Reduction in Contingency Fund. The \$2 billion federal Contingency Fund for State Welfare Programs, created by the 1996 welfare reform law, would be reduced by a total of \$40 million.

Provisions Not in the Final Legislation. Requiring the establishment of state child death review teams, and lowering the federal Medicaid matching rate for state expenditures related to skilled professional medical personnel, are not included in the final legislation.

Title V: Effective Date

The provisions of this legislation are effective on the date of enactment, except for provisions dealing with termination of parental rights, disrupted adoptions, and the definition of nonfederal funds under family preservation. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate regular session.

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I. "Reasonable Efforts" and Child Safety Provisions

1. "Reasonable Efforts" to Preserve and Reunify Families

House Bill

As a component of their state Title IV-E plan, states would continue to be required to make reasonable efforts to preserve and reunify families; however, this requirement would not apply in cases in which a court has found that:

- a child has been subjected to "aggravated circumstances" as defined in state law (which may include abandonment, torture, chronic abuse, and sexual abuse);
- a parent has assaulted the child or another of their children or has killed another of their children (as defined in the Child Abuse Prevention and Treatment Act); or
- a parent's rights to a sibling have been involuntarily terminated.

States would not be required to make reasonable efforts on behalf of any parent who has been involved in subjecting children to these circumstances.

Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, with a legal guardian, or in another planned permanent arrangement (see item 3). (Section 2 of the House bill)

Senate Amendment

As a component of their state Title IV-E plan, states would be required to make reasonable efforts to preserve families when the child can be cared for at home without endangering the child's health or safety or to make it possible for the child to safely return home. Such reasonable efforts would not be required on behalf of any parent:

- if a court has determined that the parent has killed or assaulted another of their children; or
- if a court has determined that returning the child home would pose a serious risk to the child's health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or a previous involuntary termination of parental rights to a sibling); or
- if the state has specified in legislation cases in which reasonable efforts would not be required because of serious circumstances that endanger a child's health or safety.

Reasonable efforts to place a child for adoption or with a legal guardian or custodian could be made concurrently with reasonable efforts to preserve or reunify families (see item 3).

Nothing in Title IV-E, as amended by this Act, would be construed as precluding state courts from exercising their discretion to protect the health and safety of children in individual cases when such cases do not include aggravated circumstances as defined by state law. (Section 101 of the Senate amendment)

House-Senate Agreement

The House-Senate Agreement follows the House bill with minor differences in wording, except the agreement:

- clarifies that the state law definition of "aggravated circumstances" may include, but need not be limited to, abandonment, torture, chronic abuse, and sexual abuse;
- adds a rule of construction specifying that nothing in this legislation would be construed as precluding state courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in this provision; and
- establishes new definitions, under Title IV-E, of the terms "legal guardianship" and "legal guardian." (Section 101 of the House-Senate Agreement)

2. Consideration of Child Health and Safety

House Bill

In determining and making reasonable efforts on behalf of a child, the child's health and safety must be of paramount concern. (Section 2)

Senate Amendment

Same as House bill. (Section 101) In addition, the Senate amendment amends current law to include references to child safety in provisions dealing with child welfare services, case plans, and case review procedures. (Section 102)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment.

3. "Reasonable Efforts" to Place Children for Adoption or Other Permanent Arrangement

House Bill

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 or are no longer consistent with the child's permanency plan, then states would be required to make reasonable efforts to place the child for adoption, with a legal guardian, or (if adoption or guardianship were not appropriate) in another planned, permanent arrangement. Reasonable efforts to preserve or reunify families could be made concurrently with efforts to place the child for adoption, guardianship, or in another planned, permanent arrangement. (Section 2)

Senate Amendment

If reasonable efforts to preserve or reunify a family are not made because of the reasons cited in item 1 (as determined by a court), then a permanency planning hearing must be held for the child within 30 days of the court determination. In such cases, states are required to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the placement. Reasonable efforts to place a child for adoption or with a legal custodian could be made concurrently with reasonable efforts to preserve or reunify the family. (Section 101)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment with minor differences in wording. (Section 101)

4. Documentation of Efforts to Adopt

House Bill

For every child whose permanency plan is adoption or another permanent placement, states would be required to document the steps taken to find an adoptive family or permanent home; to place the child with the adoptive family, legal guardian, or other permanent home (including the custody of a fit and willing relative); and to finalize the adoption or guardianship. The documentation must cover child-specific recruitment efforts such as use of adoption information exchanges, including electronic exchange systems. (Section 7)

Senate Amendment

Same as House bill, with minor differences in wording. (Section 108)

House-Senate Agreement

The House-Senate Agreement follows the House bill and Senate amendment. (Section 107)

5. Termination of Parental Rights

House Bill

In the case of a child who is younger than 10 and has been in foster care for 18 of the most recent 24 months, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, unless:

- at the option of the state, the child is being cared for by a relative;
- a state court or agency has documented a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family with services deemed appropriate by the state (in cases in which reasonable efforts to preserve or reunify the family have been required).

This provision would apply only to children who enter foster care on or after October 1, 1997. (Section 3)

Senate Amendment

In the case of a child who has been in foster care for 12 of the most recent 18 months, an infant who is determined by the court to have been abandoned (as defined under state law), or a court determination that a parent of a child has assaulted the child or killed or assaulted another of their children, states would be required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family, unless:

- at the option of the state, the child is being cared for by a relative;
- a state agency has documented to the state court a compelling reason for determining that such a petition would not be in the best interests of the child; or
- the state has not provided the family of the child with services deemed necessary by the state for the child's safe return home. (Section 104(a))

A child would be considered as having entered foster care on the earlier of the date of the first judicial hearing after the child's removal from home or 30 days after the child's removal from home. (Section 104(b))

Nothing in Title IV-E, as amended by this legislation, would preclude state courts or agencies from initiating termination of parental rights for other reasons, or according to earlier timetables than those specified, if such actions are determined to be in the child's best interests. These special cases include those in which the child has experienced multiple foster care placements. (Section 104(c))

For children in foster care on or before the date of enactment, this provision would apply as though the children first entered care on the date of enactment. The effective date of this bill, providing time for state legislatures to enact necessary legislation, would apply to this provision (see item 28). (Section 104(d))

House-Senate Agreement

The House-Senate Agreement follows the House bill and Senate amendment with modifications. With regard to cases taken into state custody after the date of enactment of this legislation, states are required to initiate a petition (or join any existing petition) to terminate parental rights, and concurrently, to identify, recruit, process, and approve a qualified adoptive family for groups of children:

- those who have been in foster care for 15 of the most recent 22 months;
- those who the court has determined to be abandoned infants (as defined in state law); or
- those for whom there has been a court determination that their parent has assaulted the child or killed or assaulted another of their children.

There are three exceptions to the requirement for terminating parental rights in these cases:

- at the option of the state, if the child is being cared for by a relative;

- if a state agency has documented in the case plan, which must be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the child; or
- if the state has not provided to the family of the child, consistent with the time period in the case plan, such services as the state deems necessary for the safe return of the child (in cases in which reasonable efforts to reunify the family have been required). (Section 103(a))

For purposes of applying the 15 of 22 month rule to new cases, the clock begins on the date of the first judicial finding that the child has been subjected to child abuse or neglect or 60 days after the child's removal from home. (Section 103(b))

With regard to children who enter foster care after the date of enactment, states would be required to comply with this provision when any such child has been in care for 15 of the most recent 22 months, but no later than 3 months after the end of the first regular session of the state's legislature that begins after the date of enactment. With regard to children who are in foster care on the date of enactment, states would be required to apply the 15 of 22 months rule to one-third of the caseload no later than 6 months after the end of the first legislative session, and would give priority to children with permanency plans of adoption and children who have been in foster care for the greatest length of time. States then would be required to apply the 15 of 22 months rule to two-thirds of the caseload no later than 12 months after the end of the first legislative session. Finally, states must apply the 15 of 22 months rule to all children who are in foster care on the date of enactment within 18 months after the end of the first legislative session that begins after the date of enactment. (Section 103(c))

Nothing in Title IV-E, as amended by this legislation, can be construed as precluding state courts or state agencies from initiating the termination of parental rights for other reasons, or according to earlier timetables, than those specified, when determined to be in the child's best interests. These exceptions include cases in which the child has experienced multiple foster care placements. (Section 103(d))

6. Child Death Review Teams

House Bill

No provision.

Senate Amendment

To be eligible for payments under Title IV-E, no later than 2 years after enactment states must certify that they have established and are maintaining a state child death review team (and, if necessary, regional and local teams) to investigate child deaths. Such deaths include those in which there has been a prior report of abuse or neglect or there is reason to suspect that the death was related to abuse or neglect, or the child was a ward of the state or otherwise known to the child welfare agency. State, regional, or local teams may be existing citizen review panels, as authorized under CAPTA, or existing foster care review boards.

In addition, HHS would be required to establish a federal child death review team, with representatives from other federal agencies, to investigate deaths on federal lands, provide guidance and technical assistance to states and localities upon request, and make recommendations to prevent child deaths. (Section 103)

House-Senate Agreement

The House-Senate Agreement follows the House bill.

7. Criminal Record Checks

House Bill

At state option, states could provide, as a component of their Title IV-E plan, procedures for criminal records checks and checks of a state's child abuse registry for any prospective foster parents or adoptive parents, and employees of child care institutions, before the parents or institutions are finally approved for a placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children, or crimes involving violence (including rape, sexual or other assault, or homicide), approval could not be granted. In any case of a criminal conviction for a felony or misdemeanor not involving violence, or the existence of a substantiated report of abuse or neglect, final approval could be granted only after consideration of the nature of the offense, the length of time since it occurred, the individual's life experiences since the offense occurred, and any risk to the child. (Section 17)

Senate Amendment

States would be required to provide, as a component of their Title IV-E plan, procedures for federal and state criminal records checks for any prospective foster or adoptive parents and other adults living in their home. Background checks also would be required for employees of residential child care institutions. Parents and institutions must have background checks before being approved for placement of a child eligible for federal subsidies under Title IV-E.

In any case of a criminal conviction of child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual or other physical assault, battery, or homicide), approval could not be granted. In addition, if a state finds that a court of competent jurisdiction has determined that a drug-related offense has occurred within the past 5 years, approval could not be granted. (Section 107(a))

This provision would not be construed to supercede any provision of state law regarding criminal records checks and other background checks for prospective foster and adoptive parents and employees of residential child care institutions, unless such provisions prevent the application of the requirements in this amendment. (Section 107(b))

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment with modifications. States would be required to provide, as a component of their Title IV-E plan, procedures for criminal records checks for any prospective foster or adoptive parents, before the parents are finally approved for placement of a child eligible for federal subsidies under Title IV-E. In any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide), approval could not be granted. In any case of a felony conviction for physical assault, battery, or a drug-related offense, approval could not be granted if the felony was committed within the past 5 years. States could opt out of this provision through a written notification from the Governor to the Secretary, or through state law enacted by the legislature.

8. Quality Standards for Out-of-home Care

House Bill

No provision.

Senate Amendment

As a component of their state Title IV-E plan, states would be required to develop and implement standards to ensure that children in foster care placements in public or private agencies receive quality services that protect the safety and health of children. The standards must be developed by January 1, 1999. (Section 308)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment. (Section 308)

II. Adoption Promotion Provisions**9. Adoption Incentive Payments*****House Bill***

The Secretary of Health and Human Services (HHS) would be required to make adoption incentive payments to eligible states for any adoptions of foster children in a given fiscal year that exceed the number of such adoptions in a base year. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the number in the base year, plus an additional \$2,000 for each adoption of a foster child with special needs above the number in the base year (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$15 million would be authorized for each of fiscal years 1999 through 2003. The base year is the previous year with the highest number of adoptions. Relevant budget acts would be amended to require adjustments in discretionary spending limits. (Section 4)

Senate Amendment

The Senate amendment is similar to the House bill, except:

- the Secretary would be authorized, rather than required, to make adoption incentive payments;
- to be eligible to receive incentive payments, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents;
- adoption incentive payments would equal \$3,000 for each adoption of a foster child above the base number, and an additional \$3,000 for each adoption of a foster child with special needs (total of \$6,000 for each special needs adoption); and
- the base number of adoptions for determining adoption incentive payments would be the average number of adoptions for the 3 most recent fiscal years. (Section 201)

Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS), to the extent available (see item 26).

House-Senate Agreement

The House-Senate Agreement follows the House bill and the Senate amendment. The Secretary of HHS would be required to make adoption incentive payments to eligible states. An eligible state is one in which adoptions of foster children in FY1998 exceed the average number during FY1995-FY1997 or, in FY1999 and subsequent years, in which adoptions of foster children are higher than in any previous fiscal year after FY 1996. To be eligible to receive adoption incentive payments for FY2001 or FY2002, states would be required to provide health insurance coverage to any special needs child for whom there is an adoption assistance agreement between a state and the child's adoptive parents. Adoption incentive payments would equal \$4,000 for each adoption of a foster child above the base number, and an additional \$2,000 for each adoption of a foster child with special needs (for a total of \$6,000 for each special needs adoption). For these incentive payments, \$20 million would be authorized to be appropriated for each of FYs 1999 through 2003, and discretionary budget caps would be adjusted to accommodate this additional spending. (Section 201)

10. Technical Assistance to Promote Adoption***House Bill***

HHS would be authorized to provide technical assistance to states and localities to promote adoption for foster children, including:

- guidelines for expediting termination of parental rights;
- encouraged use of concurrent planning;
- specialized units and expertise in moving children toward adoption;
- risk assessment tools for early identification of children who would be at risk of harm if returned home;
- encouraged use of fast tracking for children under age 1 into pre-adoptive placements; and
- programs to place children into pre-adoptive placements prior to termination of parental rights.

For technical assistance, \$10 million would be authorized for each of fiscal years 1998-2000. (Section 12)

Senate Amendment

HHS would be required to provide technical assistance, upon request, to help states and localities reach their targets for increased numbers of adoptions. No authorization of appropriations would be included. (Section 201)

House-Senate Agreement

The House-Senate Agreement follows the House bill, except HHS would be required to use half of funds appropriated for technical assistance to the courts. (Section 201)

11. Eligibility for Adoption Assistance in Cases of Dissolved Adoptions

House Bill

No provision.

Senate Amendment

Children with special needs who had previously been eligible for federally subsidized adoption assistance under Title IV-E, and who again become available for adoption because of the dissolution of their adoption or death of their adoptive parents, would continue to be eligible for federally subsidized adoption assistance under Title IV-E in a subsequent adoption. (Section 307(a)) This provision would only apply to children who become available for adoption due to the dissolution of their previous adoption or the death of their adoptive parents, and whose subsequent adoption occurs on or after October 1, 1997. (Section 307(b))

House-Senate Agreement

The House-Senate Agreement follows the Senate bill with minor differences in wording. (Section 307)

12. Health Care Coverage for Special Needs Adopted Children

House Bill

No provision.

Senate Amendment

As a component of their state Title IV-E plans, states would be required to provide health insurance coverage for any child determined to be a child with special needs, for whom there is an adoption assistance agreement between the state and the adoptive parents, and who the state has determined could not be placed for adoption without medical assistance because the child has special needs for medical or rehabilitative care. In addition:

- such health insurance coverage could be provided through one or more state medical assistance program;
- the state would ensure that medical benefits, including mental health benefits, would be of the same type and kind as those provided for children by the state under Medicaid;

- if the state provides such health insurance coverage through a program other than Medicaid, and the state exceeds its funding for services under such program, then any such child would be deemed to be Title IV-E-eligible for purposes of Medicaid; and
- in determining cost-sharing requirements, the state would be required to take into consideration the circumstances of the adoptive parents and the needs of the child. (Section 306)

House-Senate Agreement

The House-Senate Agreement generally follows the Senate amendment. The agreement makes clear that the state may choose to comply with this provision by covering the child under Medicaid. (Section 306)

13. Interjurisdictional Adoption

House Bill

No provision.

Senate Amendment

As a component of their state Title IV-E plan, states would be required to provide that neither the state nor any other entity in the state that receives federal funds and is involved in adoption would delay or deny the adoptive placement of a child on the basis of the geographic residence of the adoptive parent or child. (Section 202(a))

In addition, the Secretary of HHS would be required to appoint an advisory panel to study interjurisdictional adoption issues. The panel would submit a report to the Secretary within 12 months of appointment, including recommendations for improvements in interjurisdictional adoptions. The Secretary would forward the report to Congress and, if appropriate, make recommendations for legislation. (Section 202(b))

House-Senate Agreement

The House-Senate Agreement generally follows the Senate amendment. As a component of their Title IV-E state plan, states would be required to assure that the state would develop plans for the effective use of cross-jurisdictional resources to facilitate timely permanent placements for waiting children. In addition, states would not be eligible for any Title IV-E payment if the Secretary found that, after the date of enactment, a state had denied or delayed the placement of a child when an approved family was available outside the jurisdiction with responsibility for handling the case of the child, or denied to grant an opportunity for a fair hearing to an individual whose allegation of a violation of this provision was denied by the state or not acted upon with reasonable promptness. (Sections 202(a) and (b)) It is the intention of Congress that the best interests of children remain the critical consideration in adoptive placement decisions. Congress does not intend to interfere with the ability of the Interstate Compact on the Placement of Children to ensure safe and appropriate adoptive placements.

The General Accounting Office (rather than HHS through an advisory panel) would be required to study and report to Congress on interjurisdictional adoption issues. (Section 202(b))

III. System Accountability and Improvement Provisions

14. Permanency Hearings

House Bill

States would be required to hold a first dispositional hearing within 12 months of a child's placement, instead of the current 18, and the name of the proceeding would be changed to

"permanency" hearing. The hearing's purpose would be to determine the child's permanency plan, which could include:

- returning home;
- referral for adoption and termination of parental rights;
- guardianship; or
- another planned, permanent arrangement, which could include the custody of a fit and willing relative. (Section 5)

Senate Amendment

States would be required to hold a first dispositional hearing within 12 months of the date the child is considered to have entered foster care, defined as the earlier of the date of the first judicial hearing after the child's removal or 30 days after the removal. The hearing would be renamed "permanency planning" hearing, and its purpose would be to determine the child's permanency plan, which could include:

- returning home;
- being placed for adoption and the state would file a petition to terminate parental rights;
- being referred for legal guardianship; or
- in cases in which the state agency has documented to the state court a compelling reason why it would not be in the child's best interest to return home, being referred for termination of parental rights, being placed for adoption with a qualified relative or a legal guardian, or being placed in another planned, permanent living arrangement. (Section 302)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment, except the name of the proceeding is changed to a "permanency" hearing rather than a "permanency planning" hearing. (Section 302)

15. Participation in Case Reviews and Hearings

House Bill

Foster parents and relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision, however, must not be construed to make any foster parent a party to such a review or hearing. (Section 6)

Senate Amendment

Same as the House bill, except the Senate amendment:

- would also apply to any pre-adoptive parent or any other individual who has provided substitute care for the child; and
- would make explicit that relative caretakers, pre-adoptive parents, and other individuals who have cared for the child, in addition to foster parents, would not be considered parties to reviews or hearings solely on the basis of receiving notice. (Section 105)

House-Senate Agreement

The House-Senate Agreement follows the House bill and Senate amendment, with minor modifications. Foster parents and preadoptive parents or relatives providing care for a child would be given notice and an opportunity to be heard at any review or hearing held with regard to the child. This provision must not be construed to make any foster parent, preadoptive parent or relative a party to such a review or hearing solely on the basis of receiving notice. (Section 104)

16. Performance Measures for State Child Welfare Programs

House Bill

The Secretary of HHS, in conjunction with the American Public Welfare Association, the National Governors' Association, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance; the report would contain recommendations for improving state performance. The first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions. To the maximum extent possible, the report would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 10)

Senate Amendment

The Secretary of HHS would be required to issue an annual report containing ratings of state performance in protecting children. The first report would be due on May 1, 1999. In developing the performance measures, the Secretary would be required to consult with the American Public Welfare Association, the National Governors' Association, the National Conference of State Legislatures, and child welfare advocates. The measures would track state performance over time in the following categories:

- number of placements for adoption and for foster care, and whether such placements were with a relative or a guardian;
- number of children who "age out" of foster care without having been adopted or placed with a guardian;
- length of stay in foster care;
- length of time between a child's availability for adoption and actual adoption;
- number of deaths and substantiated cases of child abuse or neglect in foster care; and
- specific steps taken by the state to facilitate permanence for children. (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. The report would be due no later than 6 months after enactment. (Section 203(b)) Information required by this legislation would be supplied through the Adoption and Foster Care Analysis and Reporting System (AFCARS) to the extent the information is available through AFCARS (see item 26).

House-Senate Agreement

The House-Senate Agreement follows the House bill and the Senate amendment, with modifications. The Secretary of HHS, in conjunction with Governors, state legislatures, state and local public officials responsible for administering child welfare programs, and child advocates, would be required to develop outcome measures to assess state child welfare programs and to rate state performance according to these measures. HHS would submit an annual report to Congress on state performance, with recommendations for improving state performance; the first report would be due on May 1, 1999. Outcome measures would include length of stay in foster care, number of foster care placements, and number of adoptions, and, to the maximum extent possible, would be developed from data available from the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 203(a))

In addition, the Secretary of HHS, in consultation with state and local public child welfare officials and child welfare advocates, would be required to develop and recommend to Congress a performance-based incentive funding system for payments under Titles IV-B and IV-E. No later than 6 months after enactment, the Secretary would submit a progress report on the

feasibility, timetable, and consultation process for conducting a study, with a final report due within 15 months of enactment. The report may include other recommendations for restructuring the program and for making payments to states under Titles IV-B and IV-E. (Section 203(b))

17. Child Welfare Demonstrations

House Bill

The number of child welfare demonstrations would be increased from 10 to 15. At least one of the additional demonstrations would have to address the issue of kinship care. (Section 11)

Senate Amendment

The current law limitation on the number of demonstrations that HHS could approve would be eliminated. Demonstrations would have to be designed to achieve one or more of the following goals:

- reducing a backlog of children in long-term foster care or awaiting adoptive placement;
- ensuring an adoptive placement for a child no later than 1 year after the child enters foster care;
- identifying and addressing barriers that result in delays to adoptive placements for children in foster care;
- identifying and addressing parental substance abuse problems that endanger children and result in foster care placement, including placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification;
- overcoming barriers to the adoption of children with special needs resulting from a lack of health insurance coverage for such children; and
- any other goal that the Secretary has already approved on the date of enactment, or, after the date of enactment, specifies by regulation.

In considering applications for waivers from states in which there has been a court order determining a state's failure to comply with provisions of Titles IV-B or IV-E or the Constitution, the Secretary would be required to consider the effect of the waiver on the terms and conditions of the court order. (Section 301(a)) This provision would not be construed to affect the terms and conditions of any demonstrations that had been approved as of the date of enactment. (Section 301(b))

House-Senate Agreement

The House-Senate Agreement follows the House bill and the Senate amendment, with modifications. The Secretary would be authorized to conduct demonstrations that the Secretary finds are likely to promote the objectives of Title IV-B or IV-E. The Secretary would be authorized to approve no more than 10 such demonstrations in each of FYs 1998 through 2002. If appropriate applications were submitted, the Secretary would be required to consider applications designed to identify and address barriers that result in delays to adoptive placements for foster children; identify and address parental substance abuse problems that endanger children and result in their placement in foster care, including through placement of children and parents together in residential treatment facilities that are specifically designed to serve parents and children together to promote family reunification; and to address kinship care. In addition, waivers could be approved only for those states which provide health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between a state and an adoptive parent or parents. The Secretary may waive the current law requirement that demonstrations end after 5 years. In approving demonstrations, the Secretary shall consider

the effect of the demonstration on any court orders in the state for violations of federal requirements under Titles IV-B or IV-E or the U.S. Constitution. (Section 301)

IV. Additional Provisions

18. Reauthorization and Renaming of the Family Preservation Program

House Bill

No provision.

Senate Amendment

The family preservation and family support program under Title IV-B, Subpart 2, would be reauthorized through FY2001, at the following levels: \$275 million in FY1999; \$295 million in FY2000; and \$305 million in FY2001. As under current law, these are capped entitlement funding levels. Existing allocation formula provisions, including a 1 percent reserve for Indian tribes, would remain intact. Set-asides for court improvement grants and for evaluation and research would also be reauthorized. (Section 305(a))

States would be required to devote significant portions of their expenditures, after spending no more than 10 percent of their allotment for administrative costs, to each of the following four categories of services: community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services.

Time-limited family reunification services would be defined as services and activities provided to children (and their parents) who have been removed from home and placed in foster care, for no longer than 15 months beginning on the date of their removal from home, to facilitate the child's safe and appropriate reunification with the family. Such services and activities include counseling, substance abuse treatment, mental health services, assistance to address domestic violence, and transportation. Adoption promotion and support services would be defined as services and activities designed to encourage more adoptions out of the foster care system when adoptions promote the best interests of children.

Subpart 2 of Title IV-B would be renamed "Promoting Adoptive, Safe, and Stable Families." (Section 305(b)) State plans under Subpart 2 would be required to contain assurances that in administering and conducting service programs, the safety of the children to be served would be of paramount concern. Additional references to child safety would be added to the statute. (Section 305(c)) Maintenance of effort provisions in current law would be clarified to define nonfederal funds as meaning state funds, or at the option of the state, state and local funds. This provision would take effect as if included in the Omnibus Budget Reconciliation Act of 1993. (Section 305(d))

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment, except specific examples of adoption promotion and support services would be deleted and time-limited family reunification services are limited to 15 months from the date the child enters foster care. The program would be renamed "Promoting Safe and Stable Families." (Section 305)

19. Report on Substance Abuse and Child Protection

House Bill

The Secretary of HHS would be required to submit a report to the Committees on Ways and Means and Finance on the problem of substance abuse in the child welfare population, services provided to parents who abuse substances, and the outcomes of such services. This report would be based on information from the Substance Abuse and Mental Health Services Administration

and the Administration for Children and Families within HHS, and would be due within 1 year of enactment. The report would include recommendations for legislation. (Section 13)

Senate Amendment

No provision.

House-Senate Agreement

The House-Senate Agreement follows the House bill. (Section 405)

20. Kinship Care Report

House Bill

The Secretary of HHS would be required to convene an advisory panel on kinship care no later than March 1, 1998. By the same date, the Secretary would submit an initial report to the advisory panel on the extent to which foster children are placed with relatives. The advisory panel would review the Secretary's initial report and submit comments by July 1, 1998. Based on these comments and other information, the Secretary would submit a final report, by November 1, 1998, to the Committees on Ways and Means and Finance, containing recommendations. (Section 8)

Senate Amendment

Same as the House bill with slight differences in data to be collected. (Section 303)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment, except the dates are changed so that the Secretary would be required to convene the advisory panel and submit an initial report to the advisory panel no later than June 1, 1998. The advisory panel would submit comments to the Secretary no later than October 1, 1998, and the Secretary would report to Congress no later than June 1, 1999. (Section 303)

21. Federal Parent Locator Service

House Bill

Child welfare agencies would be authorized to use the Federal Parent Locator Service to assist in locating absent parents. (Section 9)

Senate Amendment

Same as the House bill with minor differences in wording. (Section 106)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment. (Section 105)

22. Eligibility for Independent Living Services

House Bill

The primary target population for independent living services would be revised to include children who are no longer eligible for foster care subsidies under Title IV-E because they have accumulated assets of up to \$5,000. (Section 14)

Senate Amendment

Same as the House bill. (Section 304)

House-Senate Agreement

The House-Senate Agreement follows the House bill and the Senate amendment.

23. Standby Guardianship

House Bill

It would be the sense of Congress that states should have laws and procedures that would permit a parent who is chronically ill or near death to designate a standby guardian for their minor child without surrendering their own parental rights. The standby guardian's authority

would take effect upon the parent's death, the onset of mental incapacity of the parent, or the physical debilitation and consent of the parent. (Section 18)

Senate Amendment

Same as House bill. (Section 403)

House-Senate Agreement

The House-Senate Agreement follows the House bill and the Senate amendment.

24. Purchase of American-made Equipment

House Bill

It would be the sense of Congress that, to the greatest extent possible, all equipment and products purchased with funds provided under the Adoption Promotion Act should be American-made. (Section 16)

Senate Amendment

No provision.

House-Senate Agreement

The House-Senate Agreement follows the House bill with a change to reflect the name of the bill. (Section 406)

25. Preservation of Reasonable Parenting

House Bill

No provision.

Senate Amendment

Specifies that nothing in this legislation is intended to disrupt the family unnecessarily or intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. (Section 401)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment. (Section 401)

26. Use of Data from the Adoption and Foster Care Analysis and Reporting System (AFCARS)

House Bill

No provision.

Senate Amendment

Any information required to be reported by this legislation would be supplied through AFCARS to the extent such information is available in AFCARS. The Secretary would be required to modify the AFCARS regulations if necessary to allow states to obtain data required by this legislation. (Section 402)

House-Senate Agreement

The House-Senate Agreement follows the Senate amendment. (Section 402)

27. Temporary Reduction in Contingency Fund

House Bill

No provision.

Senate Amendment

The federal matching rate under Medicaid for state expenditures related to skilled professional medical personnel would be reduced to 73%. (Section 405)

House-Senate Agreement

Neither the House bill nor the Senate amendment was followed. Rather, the \$2 billion federal Contingency Fund for the Temporary Assistance for Needy Families (TANF) program,

created by the 1996 welfare reform law (P.L. 104-193), would be reduced by a total of \$44 million in outlays over the period 1998-2002. (Section 404)

V. Effective Dates

28. Effective Dates

House Bill

October 1, 1997. If the Secretary determines that states need to enact legislation to comply with state plan requirements imposed by this legislation, a state plan would not be considered out of compliance solely because it fails to meet these requirements until the first day of the calendar quarter beginning after the close of the next regular session of the state legislature. In states with a 2-year legislative session, each year would be deemed a separate session. (Section 15)

Senate Amendment

Same as House bill, except for provisions dealing with termination of parental rights (see item 5), disrupted adoptions (see item 11), and the definition of nonfederal funds under family preservation (see item 18). (Section 501)

House-Senate Agreement

The House-Senate Agreement follows the House bill and Senate amendment, with a modification to change October 1, 1997, to the date of enactment. (Section 501)