



10/03/11

Child and Family Services Improvement and Innovation Act

Identical bills (H.R. 2883/S. 1542), reauthorizing Title IV-B of the Social Security Act, were introduced in both the House of Representatives and Senate on Monday, September 12. H.R. 2883 passed in the House on Wednesday, September 21st and then in the Senate on Thursday, September 22nd. The President signed the bill into law on September 30th.

This bill reauthorizes and makes some changes to IV-B Part 1, Child Welfare Services (CWS) and Part II, Promoting Safe and Stable Families (PSSF) through 2016. Additionally, it includes a second title which reinstates Social Security Act, Title IV-E waiver authority.

CWS is a discretionary program providing flexible formula funding for a broad range of services designed to support, preserve, and/or reunite children and their families. H.R. 2883/S. 1542 maintains its authorization level at \$325 million. CWS requires each state to create a child welfare services plan—which encompasses case reviews and permanency planning, program development, agency administration, and systems collaboration activities. H.R. 2883 adds the following additional requirements:

- Adds to the state plan provision for ongoing oversight and coordination of health care services the explicit requirement to outline how emotional trauma needs associated with a child's maltreatment and removal identified through initial and follow-up health screenings will be monitored and treated.
- Also, adds to the state plan provision for ongoing oversight and coordination of health care services the explicit requirement to include protocols for the appropriate use and monitoring of psychotropic medications in the oversight of prescription medicines.
- Adds a new state plan provision requiring the inclusion of a description of state activities aimed at reducing the length of time children under age 5 are without a permanent family and state activities addressing the developmental needs of children under age 5 who are served by both IV-B and IV-E of the Social Security Act.

- Adds a new state plan provision requiring the inclusion of a description of the sources of child maltreatment death information. This provision specifically refers to a list of possible sources and includes a requirement for states to incorporate an explanation if they do not have information from those sources.

The bill also revises the caseworker visit requirement in CWS. It was previously a goal to have 90% of children in care visited by their caseworker monthly—with a majority of those visits occurring in the child’s residence— by October 1, 2008. H.R. 2883 maintains the current tiered federal financial participation reduction for failure to comply, but it requires only that the total visits in a year to equal the amount of visits if a child were visited monthly. That means if a caseworker misses a monthly visit, the percent compliance would still calculate the other months in which the child is visited. Whereas, previously, compliance only calculated the number of children who were visited every month. However, the bill makes the 90% visit goal a requirement through FY2014, and then increases that requirement to 95% in FY2015 and beyond. In addition, the tiered federal financial participation reduction for failure to comply is added for a new goal of 50% of caseworker visits occurring in the child’s residence. Previously, a requirement that the majority of visits occur in the child’s residence was included in the visit goal. A corresponding amendment is made in Title IV-E to update data collection on this modified visit requirement.

PSSF targets formula funding to four categories of services; family support, family preservation, time-limited family reunification, and adoption promotion and support. In addition, it includes reserved funding and additional authorizations for courts; substance abuse grants; caseworker visits; tribes; mentoring; and research, evaluation, and technical assistance. PSSF funding is both mandatory and discretionary. H.R. 2883 reduces the mandatory funding from \$365 million to \$345 million and maintains the authorization of \$200 million in discretionary funding. The FY11 increase to \$365 in mandatory funds was the result of \$20 million increase (to \$30 million) in funds reserved for the Court Improvement Program. That reservation continues, but now comes from the baseline of mandatory funds.

PSSF requires state plans, encompassing goal setting for services, a review process, coordination of services, and child safety assurances. H.R. 2883 adds a requirement for states to identify populations most at risk of maltreatment and describe how services are targeted to those populations.

Within the section of PSSF defining various terms used within the legislation, the definition of “family support services” —one of the four main funding categories of PSSF services— is amended by clarifying that enhancing child development, one of the listed aims of family support, can be accomplished through mentoring. The definition of mentoring is taken from the Mentoring Children of Prisoners Program. Also, under the definition for “time-limited family reunification services” — another of the four main categories of service— new examples of services and activities are added, including peer-

to-peer mentoring and support groups for parents and primary caregivers and services and activities designed to facilitate parent and sibling visitation with children in care. Finally, the definitions for “Indian Tribe” and “Tribal Organization” are updated to be consistent with the way they are defined in CWS and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

H.R. 2883 also amends the PSSF annual report—comprised of each state’s service expenditures and required of the Department of Health and Human Services (HHS) to send to Congress (i.e., House Committee on Ways and Means and Senate Committee on Finance)—to include state, in addition to national totals of actual and planned spending by service category. Furthermore, the bill requires that this report be posted publically on HHS’s website. Additionally, the bill requires the Government Accountability Office (GAO) to submit a report within a year of the bill’s enactment that identifies alternative federal funding sources for IV-B activities and services and assesses the needs of families eligible for these services, caseworkers’ resources to safely manage caseloads, the number of families and length of time they wait for substance abuse and other preventive services, and the effect of the delay of those services on reunification.

Two additional PSSF grants for targeted purposes—to support monthly caseworker visits and regional partnership grants to address permanency affected by parental substance abuse—are both maintained at \$20 million allotments each. The purpose of the monthly caseworker visit allotment is amended to specify that “improving caseworker decision-making” is in regards to decisions made about the safety, permanence and well-being of children in care. Within the discretionary grants targeting substance abuse, the bill removes the language giving greater weight to applicants addressing methamphetamine abuse specifically. The bill also adds allowance for HHS to extend a substance abuse grant for two years, that multiple grants are allowed per region, and updates the varying limit of the federal share of the cost of services under the grant through seven fiscal years. It also adds a 5 % limit on HHS administrative expenses for this grant program. Finally, the bill also requires an HHS evaluation of the programs and activities provided under the substance abuse grants from FY2007 through 2011 and again from FY2012 through 2016. HHS reports on these evaluations are due December 31, 2012 and 2017, respectively.

PSSF sets aside mandatory and discretionary funding for grants for highest state courts that carry out child welfare activities. H.R. 2883 adds a clarification that court grant improvement plans should include Adoption and Safe Families Act (ASFA, P.L. 105-89) requirements related to concurrent planning. Furthermore, the bill adds a requirement that these plans, as well as legal personnel training, should seek to improve family engagement in all stages of permanence in court processes. The bill also streamlines the number of necessary applications to one, regardless of the number of purposes the highest state court applying for funds plans to address, and updates the base allotments per purpose funded. Finally, the bill divides the entirety court improvement grants into funding categories by purpose of the grant and assigns each category a monetary reservation— \$9 million for assessing court systems and implementing improvements,

\$10 million for improving permanence and timeliness of placements, \$10 million for training court and legal personnel, and \$1 million for tribal courts. The bill also specifies that any discretionary funding allocations for court improvement should go to the first funding category of assessing court systems and implementing improvements. Finally, it continues a cost sharing provision that grantees may contribute at least 25% of funds.

H.R. 2883 makes a few additional changes to child welfare legislation. It adds a part III to title IV-B, titled, "Common Provisions." This subpart is comprised of a section on "Data Standardization for Improved Data Matching." This calls on HHS to work with the Office of Management and Budget (OMB) to designate standard data elements for any category of information required to be reported in IV-B. Additionally, under IV-E of the Social Security Act, the bill clarifies that the requirement for educational stability for children in care refers to "each" placement, removing confusion about the requirements applicability beyond the first placement. Also in IV-E, the bill requires states to document savings from the de-link of adoption assistance payments from the old Aid to Families with Dependent Children eligibility. This de-link is currently being phased in as a result of the 2008 Fostering Connections to Success and Increasing Adoptions Act. Furthermore, documentation of spending from the resulting savings of expanded federal eligibility must include how much goes to post-adoption services. Also in IV-E, under the definitions section, "case review system" is amended with an additional responsibility of the state to obtain a copy of a consumer report yearly for all children in care over the age of 16. Furthermore, the bill requires that the youth receives assistance in interpreting and resolving inaccuracies, where possible, by a court-appointed advocate.

H.R. 2883 fails to reauthorize the discretionary Mentoring Children of Prisoners grants. This program was zeroed out in the FY 2011 appropriations.

Finally, H.R. 2883 reinstates waiver authority for Title IV-E demonstration projects. Waivers are legislatively authorized and administratively approved interruptions of federal regulation to allow states more flexible use of a particular funding stream. This bill aims to bridge the differences between the two chambers' approaches at IV-E waiver reauthorization. It cedes to the House on some points including the duration of the demonstration projects the bill authorizes, while yielding to the Senate by including language requiring states to undertake specific efforts to improve permanency and outcomes and prevent abuse and neglect in order to be eligible for a waiver.

The bill allows HHS to issue up to 10 waivers each year from 2012 through 2014. Waivers cannot exceed five years or end after 2019. To qualify, a state must increase permanence by reducing time in foster care, increase positive outcomes for children and families, or prevent maltreatment and re-entry into care. In addition the state must have or plan to implement at least two of the following policies: establishing a bill of rights for children in care, implementing a health and mental health plan for children in care, covering kinship/subsidized guardianship with IV-E funding, extending IV-E foster care to 21, implementing a plan to reduce congregate care, increasing the placement of siblings together, implementing a plan to improve the recruitment and retention of quality

foster families, establishing procedures to assist youth in transitioning out of care, state plan inclusion of older youth guidance in their own transition plan, and the establishment of one or more programs to prevent placement in care and provide permanency. Furthermore, the bill includes reporting requirements that must start two years prior to the waiver application, account for all child welfare spending during the time of the waiver, provide periodic reports, and obtain an independent evaluation. Finally, tribes are eligible to apply for waivers if they are running a IV-E plan.