

Government Relations Office

Issue Brief: Fostering Connections to Success and Increasing Adoptions Act (HR 6893)

Congress approved the bipartisan Fostering Connections to Success and Increasing Adoptions Act of 2008 (HR 6893). The legislation was a result of bipartisan negotiations between the House and Senate over Fostering Connections to Success Act (HR 6307) and Improved Adoption Incentives and Relative Guardianship Support Act of 2008 (S 3038).

The House passed HR 6893 on 9/17/08 by a voice vote. Representative Jerry Weller (R-IL) recognized the support letters received from the Conference of Chief Justices and the Conference of State Court Administrators in his remarks on the House floor and asked that the letters be inserted in the record. The Senate approved HR 6893 by unanimous consent on 9/23/08. The President is expected to sign the legislation.

The legislation provides for significant reforms of the child welfare system.

HR 6893 includes provisions to:

- Give states the option of using Title IV-E funds for relative guardianship assistance payments;
- Create competitive Family Connection Grants that can be used for any of four purposes – (1) kinship navigator programs, (2) intensive family-finding efforts, (3) family group decision-making meetings, and (4) residential family treatment programs;
- Require states to exercise due diligence to identify and provide notice to all grandparents and other adult relatives within 30 days after the removal of a child from a parent unless there is an issues domestic violence;
- Allow states the option of extending foster care maintenance, adoption assistance, and relative guardianship assistance payments to children aged 18, 19, 20, or 21;
- Require states to assist a child aging out of foster care to develop a transition plan;
- Allow states to be reimbursed at a graduated and increasing rate for short-term training provided to relative guardians, private child welfare agencies approved by the state, court staff, agency attorneys, attorneys representing children or parents, guardians ad litem, court appointed special advocates, in addition to those already eligible for reimbursement;
- Require states to address education stability in each child's case plan;

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- Require states to develop a plan for on-going oversight and coordination of health care services for any child in foster care;
- Require states to make reasonable efforts to (1) place siblings in the same foster care placement and, (2) in cases where the siblings cannot be placed together, to provide for frequent visitation or other on-going interaction between the siblings;
- Give Indian tribes and tribal associations direct access to Title IV-E funds if they choose to operate a foster care and adoption program;
- Reauthorize the Adoption Incentives Program, which provides states with financial rewards for increasing the number of children adopted from their foster care systems; and
- Establish 2007 as the new base year against which future performance will be measured for the Adoption Incentives Program and increases the bonus amounts for special needs and older child adoptions.

A more detailed overview of the legislation is attached.

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Title/Section	Issue	Provision
Title I Connecting and Supporting Relative Caregivers		
Section 101	Kinship guardianship assistance payments for children	<p>States are given the option to use Title IV-E funds for kinship guardianship payments.</p> <p>To receive payments, the state must negotiate and enter into a binding kinship guardianship with the prospective relative guardian.</p> <p>The agreement is binding regardless of the state residency of the relative guardian.</p> <p>The kinship guardianship assistance payment cannot exceed the amount of the foster care maintenance payment.</p> <p>To receive payments, the child must have resided with the relative for at least 6 consecutive months in foster care and be eligible for IV-E payments while in the relative’s home.</p> <p>To receive payments, the state must have ruled out adoption or return home as appropriate permanency options.</p> <p>Children, who are at least 14 years of age, must be consulted regarding the kinship guardianship arrangement.</p> <p>If the agency and relative guardian agree on the appropriateness of placing siblings together, each child is eligible for payment.</p> <p>Criminal background checks, including fingerprint-based checks of national crime information databases, are required for any relative guardian.</p> <p>The state must document in the case plan (1) steps the agency has taken to determine that adoption or return home are not permanency options, (2) reasons for any separation of siblings during placement, (3) reasons why kinship guardianship is in the child’s best interests; (4) how the child meets eligibility kinship guardianship requirements, (5) efforts made to discuss adoption by the child’s relative foster parent, and (6) efforts made to discuss the kinship guardianship arrangement with the child’s parent(s).</p> <p>Children who exit foster care for relative guardianship or adoption after age 16 are eligible for Independent Living Services, Education and Training Vouchers, and Medicaid.</p>
Section 102	Family connections grants	<p>Competitive Family Connection Grants that can be used for any of four purposes – (1) kinship navigator programs, (2) intensive family-finding efforts, (3) family group decision-making meetings, and (4) residential family treatment programs.</p> <p>\$15 million mandatory funding is authorized for each of fiscal years 2009 – 2013.</p> <p>Eligible entities are state, local, or tribal child welfare agencies and private nonprofit organizations that have experience in working with</p>

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		<p>foster children or children in kinship care arrangements.</p> <p>Grants may be awarded for a period of not less than 1 year and not more than 3 years.</p> <p>Up to 30 new grants can be awarded each year.</p> <p>The federal contribution for total expenditures will be 75% for the first and second years of a grant and 50% for the third year of the grant.</p> <p>At least \$5 million each year must be used to implement kinship navigator programs.</p>
Section 103	Notification of relatives	<p>Within 30 days after a child is removed from the child’s parent(s), the state is required to notify all grandparents and other adult relatives [including relatives suggested by the child’s parent(s)] of the removal.</p> <p>There is an exception to the notice requirement due to family or domestic violence.</p> <p>The relatives must be notified (1) that the child has been or is being removed from the parent(s); (2) of the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice; (3) of the requirements to become a foster family home and the additional services and supports that are available for children in a foster home; and (4) if kinship guardianship is an option in the state, how the relative could enter into an agreement with the state.</p>
Section 104	Licensing standards for relatives	The current federal guidance is codified whereby states may waive certain non-safety related licensing standards on a case-by-case basis.
Section 105	Authority for comparisons and disclosures of information in the Federal Parent Locator Services for child welfare, foster care, and adoption assistance program purposes	Child welfare agencies are allowed direct access to the Federal Parent Locator Service.
<p>Title II Improving Outcomes for Children in Foster Care</p>		
Section 201	State option for children in foster care, and certain children in an adoptive or guardianship placement, after attaining age 18	<p>States have the option of using Title IV-E funds to continue providing payments for youth in foster care to age 19, 20, or 21 if the youth is (1) completing high school or a program leading to an equivalent credential; (2) enrolled in an institution which provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers, to employment; (4) employed for at least 80 hours per month; or (5) incapable of doing any of the above activities due to medical condition, which incapability is supported by regularly updated information in the child’s case plan.</p> <p>States have the option of using Title IV-E funds for adoption assistance payments until age 21 if the child was at least age of 16 before the adoption assistance agreement became effective and the child meets one of the five criteria specified above.</p>

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		<p>States have the option of using Title IV-E funds for relative guardianship assistance payments until age 21 if the child was at least age of 16 before the kinship guardianship assistance agreement became effective and the child meets one of the five criteria specified above.</p> <p>This option will be effective 10/1/10.</p>
Section 202	Transition plan for children aging out of foster care	<p>During the 90-day period immediately prior to when a child will leave foster care (at age 18, 19, 20, or 21 at state option), the state agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child.</p> <p>The plan must include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services and be as detailed as the child may elect.</p>
Section 203	Short-term training for child welfare agencies, relative guardians, and court personnel	<p>States will be reimbursed at a graduated and increasing rate for short-term training provided to relative guardians, private child welfare agencies approved by the state, <u>court staff</u>, agency attorneys, attorneys representing children or parents, guardians ad litem, court appointed special advocates, in addition to those already eligible for reimbursement.</p> <p>The increases will be phased in – 55% of training expenditures for FY 2009, 60% for FY 2010, 65% for FY 2011, and 70% for FY 2012.</p>
Section 204	Educational stability	<p>States are required to develop a plan to ensure educational stability of a child in foster care.</p> <p>The child’s case plan must include (1) assurances that the child’s placement takes into account the appropriateness of the current education setting and the proximity to the school in which the child is enrolled at the time of the placement; (2) an assurance that the state agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement; and (3) if remaining in the school is not in the child’s best interests, assurances by the state agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.</p> <p>IV-E foster care payments may be used to cover the cost for the child to travel to the child’s school of origin.</p> <p>States are required to include in their Title IV-E State Plans, assurances that every child in foster care, adoption assistance, or subsidized guardianship who has attained the minimum age for compulsory school attendance under state law is enrolled as a full-time elementary or secondary school student or has completed secondary school.</p> <p>“Elementary or secondary school student” is defined to include a child that is (1) enrolled in an institution which provides elementary or secondary education in compliance with state law, (2) instructed in elementary or secondary education at home in accordance with state law on home schools, (3) in an independent study program in elementary or secondary education that is administered by the local school or school district and is in accordance with state law and, or (4)</p>

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		incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the child’s case plan.
Section 205	Health oversight and coordination plan	<p>States are required to develop, as part of their Title IV-B State Plans, a plan for the on-going oversight and coordination of health care services for any child in a foster care placement to ensure a coordinated strategy to identify and respond to the health care needs of the children, including mental health and dental health needs.</p> <p>The plan must include an outline of (1) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice, (2) how health needs identified through screenings will be monitored and treated, (3) how medical information for children in care will be updated and appropriately shared, (4) steps to ensure continuity of health care services, (5) the oversight of prescription medicines, and (6) how the state actively consults with and involves physicians or other appropriate medical and non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children.</p>
Section 206	Sibling placement	<p>For all placements, state are required to make reasonable efforts to place siblings in the same foster care placement unless the state documents that a joint placement would be contrary to the safety or well-being of any of the siblings.</p> <p>In cases where the siblings cannot be placed together, states are required to provide for frequent visitation or other on-going interaction between siblings unless the state documents that the interaction would be contrary to the safety or well-being of any of the siblings.</p>
Title III Tribal Foster Care and Adoption Cases		
Section 301	Equitable access for foster care and adoption services for Indian children in tribal areas	Indian tribes and tribal associations will have direct access to Title IV-E payments if they elect to operate a foster care and adoption program and have a plan approved by the Secretary of Health and Human Services.
Section 302	Technical assistance and implementation	The Secretary shall provide technical assistance to Indian tribes and tribal associations, including providing one-time grants to assist the Indian tribes and tribal associations to develop their plans to implement a foster care and adoption program.
Title IV Improvement of Incentives for Adoption		
Section 401	Adoption incentives program	<p>The Adoption Incentives Program is reauthorized through FY 2013. 2007 is established as the new base year against which future performance will be measured for the Adoption Incentives Program.</p> <p>Incentive payments for special needs non-older adoptions are increased to \$4,000 per adoption.</p> <p>Incentive payments for older child adoptions are increased to \$8,000 per adoption.</p>

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		An additional incentive payment will be provided to states that exceed the highest recorded foster child adoption rate since 2002.
Section 402	Promotion of adoption of children with special needs	<p>Eligibility for adoption assistance is de-linked from the income requirements of the Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) programs and savings resulting from this change are required to be re-invested in services under Titles IV-B and IV-E.</p> <p>The number of children eligible for federal adoption assistance payments will be expanded. The expansion will be phased in over a nine year period, beginning with older children.</p>
Section 403	Information on adoption tax credit	States are required to inform all individuals who are adopting or considering adoption about the availability of the federal tax credit.
<p>Title V Clarification of Uniform Definition of Child and Other Provisions</p>		
Section 501	Clarification of uniform definition of child	<p>The definition of “qualifying child” for purposes of the dependency exemption, the child tax credit, the earned income credit, the dependent care credit, and household filing status is clarified.</p> <p>To be a “qualifying child”, the child must be younger than the individual claiming the child or the child must be permanently and totally disabled.</p> <p>A “qualifying child” must be unmarried and must not have filed a joint tax return with a spouse.</p> <p>In general, a person can only be a “qualifying child” of the child’s parent, but if the parent does not claim the child, another person can claim the child if that person has an adjusted gross income that is higher than the highest adjusted gross income of any parent of the child.</p>
Section 502	Investment of operating cash	<p>In addition to the current investment options, operating cash of the US Treasury may be invested, for not more than 90 days, in repurchase agreements with parties acceptable to the Secretary.</p> <p>The provision barring the Treasury Department from requiring the sale of obligations by a particular person, dealer, or financial institution is eliminated.</p>
Section 503	No federal funding to unlawfully present individuals	Nothing in the Act shall be construed to alter prohibitions on federal payments to individuals who are unlawfully present in the United States.
<p>Title VI Effective Date</p>		
Section 601	Effective Date	<p>Except as otherwise provided in the Act, the amendments are effective on the date of the enactment of the Act.</p> <p>Delay in implementation of the new requirements is permitted if state legislation is required.</p>