

ACF

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INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E and/or Title IV-B of the Social Security Act

SUBJECT: NEW LEGISLATION - Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act

LEGAL AND RELATED REFERENCES: Titles IV-B, IV-E, and section 1114A of the Social Security Act (the Act) as amended by Public Law 113-183, enacted September 29, 2014

PURPOSE: To inform states and Tribes of the enactment of the Preventing Sex Trafficking and Strengthening Families Act and provide basic information on the new law, including title IV-E plan changes, new case plan requirements and definitions, additions to the Adoption and Foster Care Analysis and Reporting System (AFCARS), modifications to the Family Connection grants, Chafee program, and reauthorization of the Adoption and Guardianship Incentive Program.

INFORMATION: The President signed the Preventing Sex Trafficking and Strengthening Families Act, Public Law (P.L. 113-183) into law on September 29, 2014. The law amends the title IV-E foster care program to address trafficking, limits another planned permanency living arrangement (APPLA) as a plan for youth, and reauthorizes and amends Family Connections Grants and the Adoption Incentives Program. Some of the major changes are described below (please refer to the attached law for the complete amendments).

Family Connection Grants Program

- Reauthorizes family connection grants at the current authorization level of \$15 million for 2014 under section 427 of the Social Security Act.
- Permits HHS to make family connection grants available to institutions of higher education.
- No longer requires the Secretary to reserve \$5 million each fiscal year for kinship navigator programs.
- These provisions are effective as if P.L. 113-183 was enacted on October 1, 2013.

Title IV-E requirements for identifying, reporting and determining services to victims of sex trafficking

- Modifies existing or adds new title IV-E plan requirements that apply to state and tribal title IV-E agencies as follows:
 - Modifies section 471(a)(9) to require that:
 - within 1 year of enactment (by September 29, 2015), title IV-E agencies must demonstrate that they have: 1) consulted with other specified agencies having experience with at risk youth and; 2) developed policies and procedures (including caseworker training) to identify, document, and determine appropriate services for:
 - Any child or youth in the placement, care or supervision of the title IV-E agency who is at-risk of becoming a sex trafficking victim or who is a sex trafficking victim (including those not removed from home; those who have run away from foster care and under age 18 or such higher age elected under 475(8); and youth not in foster care who are receiving services under the Chafee Foster Care Independence program (CFCIP) (477)), and at the option of the agency, youth under age 26 who were or were never in foster care. (471(a)(9)(C)(i)¹)
 - within 2 years of enactment (by September 29, 2016), title IV-E agencies must demonstrate that they are implementing these policies and procedures. (471(a)(9)(C)(ii))
 - Adds a new title IV-E plan requirement at 471(a)(34) that title IV-E agencies must:
 - Report immediately (no later than 24 hours) to law enforcement children or youth described under 471(a)(9)(C)(i)(I) who the agency identifies as being a sex trafficking victim. (Must begin within 2 years of enactment (by September 29, 2016)).
 - Report annually to HHS the total number of children and youth described under 471(a)(9)(C)(i)(I) who are sex trafficking victims. (Must begin within 3 years of enactment (by September 29, 2017)).
 - Adds a new title IV-E plan requirement at 471(a)(35) that requires:
 - 1) within 1 year of enactment (by September 29, 2015), title IV-E agencies to develop and implement protocols to:
 - locate children missing from foster care,
 - determine the factors that lead to the child's being absent from foster care and to the extent possible address those factors in subsequent placements,
 - determine the child's experiences while absent from care, including whether the child is a sex trafficking victim, and
 - report related information as required by HHS. (471(a)(35)(A))
 - 2) within 2 years of enactment (by September 29, 2016), title IV-E agencies to develop and implement protocols to report children or youth described under 471(a)(9)(C)(i)(I) immediately (no later than 24 hours after receiving information) on missing or abducted children to law enforcement for entry into the National Crime Information Center (NCIC) database. (471(a)(35)(B))
- HHS must report to Congress the number of children and youth reported by title IV-E agencies as sex trafficking victims, within 4 years of enactment (by September 29, 2018) and annually thereafter. (471(d))

¹ All citations are to the SSA as amended by P.L. 113-183.

- Defines “sex trafficking victim” in section 475(9) of the Act as a victim of sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000)² or a severe form of trafficking in persons (described in section 103(9)(A) of the Trafficking Victims Protection Act of 2000).³

Title IV-E requirements related to the reasonable and prudent parent standard and developmentally appropriate activities for children in foster care

- Modifies the existing title IV-E plan requirement at 471(a)(10) requiring state and tribal licensing authorities to: permit the use of the “reasonable and prudent parenting standard” as defined in section 475(10)⁴ in their standards for foster family homes and child care institutions; require child care institutions to have an on-site official authorized to apply the reasonable and prudent parent standard; and have policies for foster parents and private entities (under contract) applying the reasonable and prudent parent standard to ensure appropriate caregiver liability when approving an activity for a foster youth. Each child care institution’s authorized official must have the same training on the “reasonable and prudent parent standard” as required under section 471(a)(24) of the Act for foster parents.
- Amends the existing title IV-E requirement at section 471(a)(24) of the Act to require title IV-E agencies to certify that foster parents have skills and knowledge on the “reasonable and prudent parent standard”.
- HHS must provide technical assistance on best practices for strategies to assist foster parents in applying the reasonable and prudent parent standard, while allowing children to participate in normal and beneficial activities (section 111(a)(3) of P. L. 113-183).
- These provisions are effective 1 year after enactment (September 29, 2015) unless a delayed effective date is approved. A limited period of delay is permitted when the Secretary of the U.S. Department of Health and Human Services determines that legislation (other than legislation appropriating funds) is required for a title IV-E agency to comply with the plan requirements under title IV-E of the Act imposed by the amendment. The “delayed effective date” is defined as the 1st day of the 1st calendar quarter after the 1st regular session of the state legislature or tribal governing body after enactment. If the state/Tribe has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the legislature.⁵

Adds new title IV-E/IV-B case plan and case review system requirements for youth with a plan of APPLA and children over age 14

- Modifies the title IV-E plan at section 471(a)(16) and title IV-B plan at 422(b)(8) of the Act with new requirements for agencies to modify their case review system (in section 475(5) of the Act) as follows:
 - Limits APPLA as a permanency plan for youth age 16 and older (section 475(5)(C)(i) of the Act).

² Section 103(10) of TVPA: Sex trafficking: The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

³ Section 103(9)(A) of TVPA: Severe forms of trafficking in persons: The term “severe forms of trafficking in persons” means—(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

⁴ “Reasonable and prudent parent standard” is defined as the standard characterized by careful and sensible parental decisions that maintain a child’s health, safety, and best interests while at the same time encouraging the child’s emotional and developmental growth, that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state/Tribe to participate in extracurricular, enrichment, and social activities. Caregiver (for this purpose only), is a foster parent or designated official at a child care institution.

⁵ This means, for example, that ACF may approve a delayed effective date of 10/1/2015 (for this provision) when the 1st regular legislative session that is held after September 29, 2014 closes between July 1, 2015 and September 30, 2015.

- Requires title IV-E agencies to follow additional case review and case plan requirements in sections 475A, 475(5)(B), and (C)(i) of the Act for all children in foster care with a permanency plan of APPLA including that the title IV-E agency must:
 - Document at each permanency hearing the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement (sections 475(5)(C)(i) and 475A(A)(1) of the Act).
 - Implement procedures to ensure that the court or administrative body conducting the permanency hearing asks the child about his/her desired permanency outcome and makes a judicial determination at each permanency hearing that APPLA is the best permanency plan for the child and compelling reasons why it's not in the best interest of the child to be placed permanently with a parent, relative, or in a guardianship or adoptive placement (section 475A(a)(2) of the Act).
 - Document at the permanency hearing and the 6 month periodic review the steps the agency is taking to ensure that the foster family follows the “reasonable and prudent parent standard” and whether the child has regular opportunities to engage in “age or developmentally-appropriate activities” (sections 475(5)(B) 475A(a)(3) of the Act).
- Defines “age or developmentally-appropriate” as suitable, developmentally appropriate activities for children of a certain age or maturity level based on the capacities typical for the age group and the individual child (section 475(11) of the Act).
- For children age 14 and older:
 - The case plan must document the child’s education, health, visitation, and court participation rights, the right to receive a credit report annually, and a signed acknowledgement that the child was provided these rights and that they were explained in an age appropriate way (section 475A of the Act),
 - The case plan must be developed in consultation with the child, and at the option of the child, 2 members of the case planning team, who are not the caseworker or foster parent (sections 475(1)(B) and (5)(C)(iv)of the Act),
 - The case plan and permanency hearing must describe the services to help the youth transition to successful adulthood (formerly at age 16) (sections 475(1)(D) and (5)(C)(i) of the Act),
 - The title IV-B/IV-E agency must provide a copy of his/her credit report annually and assistance in fixing any inaccuracies (formerly age 16) (section 475(I) of the Act).
- These provisions are effective 1 year after enactment (September 29, 2015). Title IV-E/IV-B Tribes have 3 years to implement the limit on APPLA as a permanency plan for youth age 16 and older (section 475(5)(C)(i) of the Act).

Providing important documents to youth aging out of foster care

- As part of the case review system in section 475(5)(I) of the Act, the title IV-B/IV-E agencies must provide a youth aging out of foster care at age 18 (or 19, 20 or 21 as elected by the agency under section 475(8) of the Act) with his/her birth certificate, Social Security card, driver’s license or identification card, health insurance information, and medical records. Children who have been in foster care for less than 6 months are exempt.
- These provisions are effective 1 year after enactment (September 29, 2015).

Relative notification and sibling definition

- Modifies the title IV-E plan requirement in section 471(a)(29) of the Act for relative notification to include notifying parents of the child’s siblings.

- Defines siblings in section 475(12) of the Act to mean an individual who is considered by state law to be a sibling or who would be considered a sibling under state law if it were not for a disruption in parental rights, such as a termination of parental rights or death of parent.
- These provisions are effective upon enactment unless a delayed effective date is approved. A limited period of delay is permitted when the Secretary of the U.S. Department of Health and Human Services determines that legislation (other than legislation appropriating funds) is required for a title IV-E agency to comply with the plan requirements under title IV-E of the Act imposed by the amendment. The “delayed effective date” is defined as the 1st day of the 1st calendar quarter after the 1st regular session of the state legislature or tribal governing body after enactment. If the state/Tribe has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the legislature.⁶

Adoption and Guardianship Incentive Program- applies to state title IV-E agencies only

- Renames the program “Adoption and Legal Guardianship Incentive Payments.”
- Reauthorizes at the current authorization level of \$43 million for each fiscal year through 2016.
- Creates new incentive categories that replace the old categories. Each fiscal year, a state is eligible for incentive funds in the following categories and award levels:
 - \$5,000 for improving the rate of foster child adoptions.
 - \$10,000 for improving the rate of older child adoptions and older foster child guardianships (age 14 and older).⁷
 - \$7,500 for improving the rate of pre-adolescent adoptions and pre-adolescent foster child guardianships (ages 9-13).⁸
 - \$4,000 for improving the rate of foster child guardianships.⁹
- The base rate is the average rate for the immediately preceding 3 fiscal years or the rate for the prior fiscal year. For fiscal year 2014, states receive an amount equal to half the sum of the total award currently in effect and the total award under the new categories. Also provides a pro rata adjustment if insufficient funds are available.
- Creates an incentive for timely adoptions and guardianships finalized during any fiscal years 2013-2015 if the other incentive awards are less than the appropriation. A state may be eligible to receive an award for a fiscal year if the average number of months from removal to placement in a finalized adoption or guardianship is less than 24 months.
- Allows states to spend the incentives over a 36 month period instead of a 24 month period.
- The guardianship incentive is available for a child who leaves foster care to live with a legal guardian if either:
 - The child was removed from the home pursuant to a voluntary placement agreement or judicial determination that continuation in the home is contrary to the welfare of the child, return to the home is not an appropriate option, the child demonstrates a strong attachment to the legal guardian, the legal guardian has a strong commitment to caring permanently for the child, and if over 14 years of age, the child is consulted regarding the legal guardianship arrangement; or

⁶ See footnote 5.

⁷ The award amount for older child adoptions and guardianships is based on a calculation that involves the base rate of adoptions/guardianships during the fiscal year and the number of children age 14 and older in foster care in the state on the last day of the previous fiscal year.

⁸ The award amount for pre-adolescent adoptions and guardianships is based on a calculation that involves the base rate of adoptions/guardianships during the fiscal year and the number of children ages 9-13 in foster care in the state on the last day of the previous fiscal year.

⁹ The award amount for foster child adoptions and foster child guardianships are based on a calculation that involves the base rate of adoptions/guardianships during the fiscal year and the number of children in foster care in the state on the last day of the previous fiscal year.

- Alternative procedure used by the state to determine that the legal guardianship is an appropriate option for the child.
- States may not use incentive payments to supplant federal or non-federal funds for services under title IV-B or IV-E.

Successor guardians

- Allows continuation of title IV-E kinship guardianship assistance payments if the relative guardian dies or is incapacitated and a successor legal guardian is named in the agreement (or any amendments to the agreement) (section 473(d)(3)(C) of the Act).
- This provision is effective upon enactment (September 29, 2014).

Title IV-E Adoption Assistance Program savings reporting

- Modifies section 473(a)(8) of the Act to require title IV-E agencies to calculate and report annually the savings from the agency de-linking title IV-E adoption assistance eligibility from the Aid to Families with Dependent Children (AFDC) eligibility requirements, the methodology used to calculate the savings, how savings are spent, and on what services. Title IV-E agencies must use a methodology specified by the Secretary or may propose an alternative for the Secretary's approval.
- Title IV-E agencies must spend the savings on title IV-B and IV-E programs; 30% of which must be spent on post-adoption services, post-guardianship services and services to support positive permanent outcomes for children at risk of entering foster care. Two-thirds of the 30% must be spent on post-adoption and post-guardianship services.
- Title IV-E agencies must use the savings to supplement and not supplant any Federal or non-Federal funds used to provide any service under title IV-B or IV-E.
- These provisions were effective as of October 1, 2014.

New Chafee Foster Care Independence Program (CFCIP) purpose and increased appropriations beginning in 2020

- Increases the appropriation by \$3m to \$143,000,000 beginning in FY 2020 (section 477(h)(1) of the Act).
- Amends the purposes of the CFCIP at section 477(a)(8) of the Act to ensure that children who are likely to remain in foster care until age 18 have on-going opportunities to engage in “age or developmentally-appropriate” activities.
- This provision is effective 1 year after enactment (September 29, 2015) unless a delayed effective date is approved. A limited period of delay is permitted when the Secretary of the U.S. Department of Health and Human Services determines that legislation (other than legislation appropriating funds) is required for a title IV-E agency to comply with the plan requirements under title IV-E of the Act imposed by the amendment. The “delayed effective date” is defined as the 1st day of the 1st calendar quarter after the 1st regular session of the state legislature or tribal governing body after enactment. If the state/tribe has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the legislature.¹⁰

New Adoption and Foster Care Analysis and Reporting System (AFCARS) data elements

- Amends section 479 of the Act to require title IV-E agencies to report information on children in foster care who are identified as sex trafficking victims and children who enter foster care after a finalized adoption or legal guardianship.

Annual state child welfare outcomes report (section 479A of the Act)

- Beginning in FY 2016, HHS must report state-by-state data on children in foster care who are:

¹⁰ See footnote 5.

- pregnant or parenting.
- placed in a child care institution or other non-foster family home setting including:
 - the number of children in the placement, their ages, and whether they have a permanency plan of APPLA,
 - their duration in placement and the type of child care institution placed (e.g., group home, residential treatment, shelter, or other congregate care setting),
 - the number of foster children placed in each setting, and
 - any clinically diagnosed special need and the extent of special education or services provided in the placement.
- HHS must consult with states and other child welfare-related organizations on other issues and data to report on using AFCARS, NYTD and other data available to HHS.

Reports to Congress

- HHS must report to Congress on children who run away from foster care and their risk of being sex trafficking victims, their characteristics, factors associated with running away, experiences while absent from care, and trends, among other things (section 105 of P. L. 113-183).
- HHS must report to Congress on agencies implementation of and best practices for the case planning amendments in 475A (b), 475(1)(B), (D), and (5)(C) of the Act (section 113(e) of P. L. 113-183).
- These reports are due to Congress within 2 years of enactment (by September 29, 2016).

National Advisory Committee on the Sex Trafficking of Children and Youth in the United States
(section 1114A of the Act)

- Within 2 years of enactment, HHS must establish and appoint a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States to, among other things advise on practical and general policies on improving the national response to sex trafficking and develop best practices.

The Children’s Bureau will provide further guidance through Program Instructions at a later date.

INQUIRIES TO: Children’s Bureau Regional Program Managers

/s/

Mark Greenberg
Acting Commissioner, ACYF

/s/

JooYeun Chang
Associate Commissioner, CB

Attachments:

A – [Public Law 113-183](#)

B – CB Regional Office Program Managers