

105TH CONGRESS
1ST SESSION

H. R. 1459

To amend part E of title IV of the Social Security Act to prevent children from languishing in foster care.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1997

Mr. TIAHRT (for himself and Mr. BURTON of Indiana) (both by request), introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend part E of title IV of the Social Security Act to prevent children from languishing in foster care.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Protection and
5 Adoption Advancement Act”.

6 **SEC. 2. LIMITATION ON REASONABLE EFFORTS REQUIRE-**
7 **MENT.**

8 Section 471(a)(15) of the Social Security Act (42
9 U.S.C. 671(a)(15)) is amended by striking “effective Oc-
10 tober 1, 1983, provides that, in each case,” and inserting

1 “provides that, except in the case of a child to which sub-
2 section (c)(2) applies,”.

3 **SEC. 3. PRE-ADOPTIVE PROCEDURES.**

4 (a) IN GENERAL.—Section 471 of the Social Security
5 Act (42 U.S.C. 671) is amended by adding at the end the
6 following:

7 “(c) The Secretary shall not approve a State plan
8 under this part unless there is in effect in the State laws
9 and rules of law which provide all of the following:

10 “(1)(A) Within 30 days after a child who has
11 not attained 13 years of age (or such greater age as
12 the State may determine) is placed in foster care
13 under the responsibility of the State, a dispositional
14 hearing of the type described in section 475(5)(C)
15 shall be held to determine whether—

16 “(i) the child should be returned home;

17 “(ii) the child is described by subpara-
18 graph (C); or

19 “(iii) the child should remain in custody of
20 the State.

21 “(B) If, as a result of the hearing, it is deter-
22 mined that the case of the child is described by sub-
23 paragraph (C), paragraph (2) shall apply to the
24 child.

1 “(C) A child is described by this subparagraph
2 if the child has been a victim of aggravated cir-
3 cumstances (as defined by the State and approved
4 by the Secretary) which definition may include—

5 “(i) abandonment, torture, chronic abuse,
6 or sexual abuse; or

7 “(ii) having a parent—

8 “(I) who has been found by a court of
9 competent jurisdiction to have engaged in
10 conduct described in section
11 106(b)(2)(A)(xii) of the Child Abuse Pre-
12 vention and Treatment Act; or

13 “(II) whose parental rights with re-
14 spect to a sibling of the child have been
15 terminated.

16 “(2)(A)(i) If this paragraph applies to a child,
17 the State shall—

18 “(I) seek 1 or more individuals who are
19 qualified and willing to be the adoptive parents
20 of the child, or contract with a private adoption
21 agency to find 1 or more such individuals for
22 the child within 180 additional days after the
23 determination described in paragraph (1)(B)
24 (or, if this paragraph applies to the child by
25 reason of paragraph (3), within 180 days after

1 the termination of parental rights with respect
2 to the child); and

3 “(II) if the State has not found 1 or more
4 such individuals within the first 90 days of the
5 180-day period described in subclause (I), im-
6 mediately contract with a private adoption
7 agency to find 1 or more such individuals for
8 the child within the remaining 90 days of the
9 180-day period.

10 “(ii) Upon finding 1 or more such individuals
11 for a child to whom this paragraph applies, the
12 State shall—

13 “(I) designate the individual or individuals
14 as the preadoptive parent or parents of the
15 child; and

16 “(II) place the child with the individual or
17 individuals.

18 “(B)(i) After the 4-month period that begins
19 with the date a child to whom this paragraph applies
20 is placed with preadoptive parents (or at such earlier
21 time as may be prescribed by State law), the
22 preadoptive parents shall have the right to petition
23 the courts of the State for an expedited hearing for
24 the purpose of—

1 “(I) terminating the parental rights of all
2 other persons with respect to the child; and

3 “(II) adopting the child.

4 “(ii) In determining whether to grant a petition
5 described in clause (i), the courts of the State shall
6 not draw any inference adverse to the interests of a
7 petitioner by reason of the present or former status
8 of any petitioner as a foster parent.

9 “(C)(i)(I) If the preadoptive parents of a child
10 to whom this paragraph applies fail to exercise the
11 right described in subparagraph (B)(i) with respect
12 to the child during the 1-year period that begins
13 with the date the preadoptive parents first have the
14 right (including any extension required by subclause
15 (II)), then the State shall—

16 “(aa) immediately revoke their designation
17 as the preadoptive parents of the child; and

18 “(bb) hold a dispositional hearing of the
19 type described in section 475(5)(C) to deter-
20 mine whether the child should be placed with
21 new preadoptive parents or remain in the cus-
22 tody of the State.

23 “(II) The period described in subclause (I) (in-
24 cluding any extension of the period) shall be ex-
25 tended by 1 year if the State determines that—

1 “(aa) the preadoptive parents have good
2 cause for having failed to exercise the right de-
3 scribed in subparagraph (B)(i) during the pe-
4 riod (including any extension of the period); or

5 “(bb) that it would not be in the best in-
6 terests of the child to remove the child from the
7 preadoptive parents.

8 “(ii) If, as a result of the hearing referred to
9 in clause (i)(I)(bb), it is determined that the child
10 should be placed with new pre-adoptive parents, the
11 State shall—

12 “(I) seek 1 or more individuals (other than
13 the former preadoptive parents of the child)
14 who are qualified and willing to be the adoptive
15 parents of the child, or contract with a private
16 adoption agency to find 1 or more such individ-
17 uals for the child within 180 days after the
18 hearing; and

19 “(II) if the State has not found 1 or more
20 such individuals within the first 90 days of the
21 180-day period described in subclause (I), im-
22 mediately contract with a private adoption
23 agency to find 1 or more such individuals for
24 the child within the remaining 90 days of the
25 180-day period.

1 “(iii) Upon finding 1 or more such other indi-
2 viduals for the child, the State shall—

3 “(I) designate such other individual or in-
4 dividuals as the preadoptive parent or parents
5 of the child; and

6 “(II) place the child with such other indi-
7 vidual or individuals.

8 “(3)(A) If a child has been in foster care under
9 the responsibility of the State during 12 of the most
10 recent 18 months, or it is no longer reasonable for
11 the State to continue making efforts of the type de-
12 scribed in subsection (a)(15) with respect to a child
13 in foster care under the responsibility of the State
14 who has not attained 13 years of age (or such great-
15 er age as the State may establish), the State shall
16 seek to terminate all parental rights with respect to
17 the child, unless—

18 “(i) at the option of the State—

19 “(I) the child is being cared for by a
20 relative who is qualified and willing to
21 adopt, or become the legal guardian of, the
22 child; and

23 “(II) it is in the best interests of the
24 child to reside with the relative; or

1 “(ii) a State court or State agency has
2 documented a compelling reason for determin-
3 ing that filing such a petition would not be in
4 the best interests of the child.

5 “(B) Upon terminating all parental rights with
6 respect to the child, paragraph (2) shall apply to the
7 child.”.

8 (b) REPORT TO THE CONGRESS.—At the end of the
9 27-month period that begins with the effective date of the
10 amendment made by subsection (a), the Secretary of
11 Health and Human Services shall prepare and submit to
12 the Committee on Ways and Means of the House of Rep-
13 resentatives and the Committee on Finance of the Senate
14 a report which assesses the implementation and effects of
15 the amendment.

16 **SEC. 4. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Except as provided in subsection
18 (b), the amendments made by this Act shall apply to pay-
19 ments under title IV of the Social Security Act for cal-
20 endar quarters beginning after the calendar quarter in
21 which this Act is enacted.

22 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
23 QUIRED.—In the case of a State plan approved under title
24 IV of the Social Security Act which the Secretary of
25 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 1st day of the 1st calendar quarter beginning after the
8 close of the 1st regular session of the State legislature that
9 begins after the date of the 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.

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