

108TH CONGRESS
2^D SESSION

H. R. 4504

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2004

Received

AN ACT

To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safe and Timely Inter-
3 state Placement of Foster Children Act of 2004”.

4 **SEC. 2. SENSE OF THE CONGRESS.**

5 (a) **FINDING.**—The Congress finds that the Inter-
6 state Compact on the Placement of Children (ICPC) was
7 drafted more than 40 years ago, is outdated, and is a bar-
8 rier to the timely placement of children across State lines.

9 (b) **SENSE OF THE CONGRESS.**—It is the sense of
10 the Congress that the States should expeditiously revise
11 the ICPC to better serve the interests of children and re-
12 duce unnecessary work, and that the revision should in-
13 clude—

14 (1) limiting its applicability to children in foster
15 care under the responsibility of a State, except those
16 seeking placement in a licensed residential facility
17 primarily to access clinical mental health services;
18 and

19 (2) providing for deadlines for the completion
20 and approval of home studies as set forth in section
21 4.

22 **SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE**
23 **PLACEMENT OF CHILDREN.**

24 Section 471(a) of the Social Security Act (42 U.S.C.
25 671(a)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (23);

3 (2) by striking the period at the end of para-
4 graph (24) and inserting “; and”; and

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

6 “(25) provide that the State shall have in effect
7 procedures for the orderly and timely interstate
8 placement of children; and procedures implemented
9 in accordance with an interstate compact approved
10 by the Secretary, if incorporating with the proce-
11 dures prescribed by paragraph (26), shall be consid-
12 ered to satisfy the requirement of this paragraph.”.

13 **SEC. 4. HOME STUDIES.**

14 (a) ORDERLY PROCESS.—

15 (1) IN GENERAL.—Section 471(a) of the Social
16 Security Act (42 U.S.C. 671(a)) is further amend-
17 ed—

18 (A) by striking “and” at the end of para-
19 graph (24);

20 (B) by striking the period at the end of
21 paragraph (25) and inserting “; and”; and

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

23 “(26) provides that—

24 “(A)(i) within 60 days after the State re-
25 ceives from another State a request to conduct

1 a study of a home environment for purposes of
2 assessing the appropriateness of placing a child
3 in the home, the State shall, directly or by con-
4 tract—

5 “(I) conduct and complete the study;

6 and

7 “(II) return to the other State a re-
8 port on the results of the study, which
9 shall address the extent to which place-
10 ment in the home would meet the needs of
11 the child; and

12 “(ii) in the case of a home study begun on
13 or before September 30, 2006, if the State fails
14 to comply with clause (i) within the 60-day pe-
15 riod as a result of circumstances beyond the
16 control of the State (such as a failure by a Fed-
17 eral agency to provide the results of a back-
18 ground check, or the failure by any entity to
19 provide completed medical forms, requested by
20 the State at least 45 days before the end of the
21 60-day period), the State shall have 75 days to
22 comply with clause (i) if the State documents
23 the circumstances involved and certifies that
24 completing the home study is in the best inter-
25 ests of the child; except that

1 “(iii) this subparagraph shall not be con-
2 strued to require the State to have completed,
3 within the applicable period, the parts of the
4 home study involving the education and train-
5 ing of the prospective foster or adoptive par-
6 ents;

7 “(B) the State shall treat any report de-
8 scribed in subparagraph (A) that is received
9 from another State or an Indian tribe (or from
10 a private agency under contract with another
11 State) as meeting any requirements imposed by
12 the State for the completion of a home study
13 before placing a child in the home, unless, with-
14 in 14 days after receipt of the report, the State
15 determines, based on grounds that are specific
16 to the content of the report, that making a de-
17 cision in reliance on the report would be con-
18 trary to the welfare of the child; and

19 “(C) the State shall not impose any re-
20 striction on the ability of a State agency admin-
21 istering, or supervising the administration of, a
22 State program operated under a State plan ap-
23 proved under this part to contract with a pri-
24 vate agency for the conduct of a home study de-
25 scribed in subparagraph (A).”.

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

3 “(2) the State is in compliance with subsection
4 (c) for the fiscal year; and

5 “(3) based on data submitted and verified pur-
6 suant to subsection (c), the State has completed a
7 timely interstate home study during the fiscal year.

8 “(c) DATA REQUIREMENTS.—

9 “(1) IN GENERAL.—A State is in compliance
10 with this subsection for a fiscal year if the State has
11 provided to the Secretary a written report, covering
12 the preceding fiscal year, that specifies—

13 “(A) the total number of interstate home
14 studies requested by the State with respect to
15 children in foster care under the responsibility
16 of the State, and with respect to each such
17 study, the identity of the other State involved;
18 and

19 “(B) the total number of timely interstate
20 home studies completed by the State with re-
21 spect to children in foster care under the re-
22 sponsibility of other States, and with respect to
23 each such study, the identity of the other State
24 involved.

1 “(2) VERIFICATION OF DATA.—In determining
2 the number of timely interstate home studies to be
3 attributed to a State under this section, the Sec-
4 retary shall check the data provided by the State
5 under paragraph (1) against complementary data so
6 provided by other States.

7 “(d) TIMELY INTERSTATE HOME STUDY INCENTIVE
8 PAYMENTS.—

9 “(1) IN GENERAL.—The timely interstate home
10 study incentive payment payable to a State for a fis-
11 cal year shall be \$1,500, multiplied by the number
12 of timely interstate home studies attributed to the
13 State under this section during the fiscal year, sub-
14 ject to paragraph (2).

15 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
16 FUNDS AVAILABLE.—If the total amount of timely
17 interstate home study incentive payments otherwise
18 payable under this section for a fiscal year exceeds
19 the total of the amounts made available pursuant to
20 subsection (h) for the fiscal year (reduced (but not
21 below zero) by the total of the amounts (if any) pay-
22 able under paragraph (3) of this subsection with re-
23 spect to the preceding fiscal year), the amount of
24 each such otherwise payable incentive payment shall
25 be reduced by a percentage equal to—

1 “(A) the total of the amounts so made
2 available (as so reduced); divided by

3 “(B) the total of such otherwise payable
4 incentive payments.

5 “(3) APPROPRIATIONS AVAILABLE FOR UNPAID
6 INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

7 “(A) IN GENERAL.—If payments under
8 this section are reduced under paragraph (2) or
9 subparagraph (B) of this paragraph for a fiscal
10 year, then, before making any other payment
11 under this section for the next fiscal year, the
12 Secretary shall pay each State whose payment
13 was so reduced an amount equal to the total
14 amount of the reductions which applied to the
15 State, subject to subparagraph (B) of this para-
16 graph.

17 “(B) PRO RATA ADJUSTMENT IF INSUFFI-
18 CIENT FUNDS AVAILABLE.—If the total amount
19 of payments otherwise payable under subpara-
20 graph (A) of this paragraph for a fiscal year ex-
21 ceeds the total of the amounts made available
22 pursuant to subsection (h) for the fiscal year,
23 the amount of each such payment shall be re-
24 duced by a percentage equal to—

1 “(i) the total of the amounts so made
2 available; divided by

3 “(ii) the total of such otherwise pay-
4 able payments.

5 “(e) TWO-YEAR AVAILABILITY OF INCENTIVE PAY-
6 MENTS.—Payments to a State under this section in a fis-
7 cal year shall remain available for use by the State
8 through the end of the next fiscal year.

9 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
10 MENTS.—A State shall not expend an amount paid to the
11 State under this section except to provide to children or
12 families any service (including post-adoption services) that
13 may be provided under part B or E. Amounts expended
14 by a State in accordance with the preceding sentence shall
15 be disregarded in determining State expenditures for pur-
16 poses of Federal matching payments under sections 423,
17 434, and 474.

18 “(g) DEFINITIONS.—In this section:

19 “(1) HOME STUDY.—The term ‘home study’
20 means a study of a home environment, conducted in
21 accordance with applicable requirements of the State
22 in which the home is located, for the purpose of as-
23 sessing whether placement of a child in the home
24 would be appropriate for the child.

1 “(2) INTERSTATE HOME STUDY.—The term
2 ‘interstate home study’ means a home study con-
3 ducted by a State at the request of another State,
4 to facilitate an adoptive or relative placement in the
5 State.

6 “(3) TIMELY INTERSTATE HOME STUDY.—The
7 term ‘timely interstate home study’ means an inter-
8 state home study completed by a State if the State
9 provides to the State that requested the study, with-
10 in 30 days after receipt of the request, a report on
11 the results of the study. The preceding sentence
12 shall not be construed to require the State to have
13 completed, within the 30-day period, the parts of the
14 home study involving the education and training of
15 the prospective foster or adoptive parents.

16 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
17 PRIATIONS.—

18 “(1) IN GENERAL.—For payments under this
19 section, there are authorized to be appropriated to
20 the Secretary—

21 “(A) \$10,000,000 for fiscal year 2005;

22 “(B) \$10,000,000 for fiscal year 2006;

23 “(C) \$10,000,000 for fiscal year 2007; and

24 “(D) \$10,000,000 for fiscal year 2008.

1 “(2) AVAILABILITY.—Amounts appropriated
2 under paragraph (1) are authorized to remain avail-
3 able until expended.”.

4 (c) REPEALER.—Effective October 1, 2008, section
5 473B of the Social Security Act is repealed.

6 **SEC. 5. REQUIREMENT TO COMPLETE BACKGROUND**
7 **CHECKS BEFORE APPROVAL OF ANY FOSTER**
8 **OR ADOPTIVE PLACEMENT AND TO CHECK**
9 **CHILD ABUSE REGISTRIES; SUSPENSION AND**
10 **SUBSEQUENT ELIMINATION OF OPT-OUT.**

11 (a) REQUIREMENT TO COMPLETE BACKGROUND
12 CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOP-
13 TIVE PLACEMENT AND TO CHECK CHILD ABUSE REG-
14 ISTRIES; SUSPENSION OF OPT-OUT.—

15 (1) REQUIREMENT TO CHECK CHILD ABUSE
16 REGISTRIES.—Section 471(a)(20) of the Social Se-
17 curity Act (42 U.S.C. 671(a)(20)) is amended—

18 (A) in subparagraph (A)—

19 (i) in the matter preceding clause (i),
20 by striking “on whose behalf foster care
21 maintenance payments or adoption assist-
22 ance payments are to be made” and insert-
23 ing “regardless of whether foster care
24 maintenance payments or adoption assist-

1 ance payments are to be made on behalf of
2 the child”;

3 (ii) in each of clauses (i) and (ii), by
4 inserting “involving a child on whose be-
5 half such payments are to be so made”
6 after “in any case”; and

7 (iii) by striking “and” at the end of
8 clause (ii); and

9 (B) by adding “and” at the end of sub-
10 paragraph (B); and

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

12 “(C) provides that the State shall—

13 “(i) check any child abuse and neglect
14 registry maintained by the State for infor-
15 mation on any prospective foster or adop-
16 tive parent and on any other adult living in
17 the home of such a prospective parent, and
18 request any other State in which any such
19 prospective parent or other adult has re-
20 sided in the preceding 5 years, to enable
21 the State to check any child abuse and ne-
22 glect registry maintained by such other
23 State for such information, before the pro-
24 spective foster or adoptive parent may be
25 finally approved for placement of a child,

1 regardless of whether foster care mainte-
2 nance payments or adoption assistance
3 payments are to be made on behalf of the
4 child under the State plan under this part;

5 “ (ii) comply with any request de-
6 scribed in clause (i) that is received from
7 another State; and

8 “ (iii) have in place safeguards to pre-
9 vent the unauthorized disclosure of infor-
10 mation in any child abuse and neglect reg-
11 istry maintained by the State, and to pre-
12 vent any such information obtained pursu-
13 ant to this subparagraph from being used
14 for a purpose other than the conducting of
15 background checks in foster or adoptive
16 placement cases;”.

17 (2) SUSPENSION OF OPT-OUT.—Section
18 471(a)(20)(B) of such Act (42 U.S.C.
19 671(a)(20)(B)) is amended—

20 (A) by inserting “, on or before September
21 30, 2004,” after “plan if”; and

22 (B) by inserting “, on or before such
23 date,” after “or if”.

1 (b) ELIMINATION OF OPT-OUT.—Section 471(a)(20)
2 of such Act (42 U.S.C. 671(a)(20)), as amended by sub-
3 section (a) of this section, is amended—

4 (1) in subparagraph (A)—

5 (A) in the matter preceding clause (i), by
6 striking “unless an election provided for in sub-
7 paragraph (B) is made with respect to the
8 State,”; and

9 (B) by adding “and” at the end of clause
10 (ii); and

11 (2) by striking subparagraph (B) and redesignig-
12 nating subparagraph (C) as subparagraph (B).

13 **SEC. 6. COURTS ALLOWED ACCESS TO THE FEDERAL PAR-**
14 **ENT LOCATOR SERVICE TO LOCATE PARENTS**
15 **IN FOSTER CARE OR ADOPTIVE PLACEMENT**
16 **CASES.**

17 Section 453(c) of the Social Security Act (42 U.S.C.
18 653(c)) is amended—

19 (1) by striking “and” at the end of paragraph
20 (3);

21 (2) by striking the period and inserting “;
22 and”; and

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

24 “(5) any court which has authority with respect
25 to the placement of a child in foster care or for

1 adoption, but only for the purpose of locating a par-
2 ent of the child.”.

3 **SEC. 7. CASEWORKER VISITS.**

4 (a) PURCHASE OF SERVICES IN INTERSTATE PLACE-
5 MENT CASES.—Section 475(5)(A)(ii) of the Social Secu-
6 rity Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
7 “or of the State in which the child has been placed” and
8 inserting “of the State in which the child has been placed,
9 or of a private agency under contract with either such
10 State”.

11 (b) INCREASED VISITS.—Section 475(5)(A)(ii) of
12 such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
13 “12” and inserting “6”.

14 **SEC. 8. HEALTH AND EDUCATION RECORDS.**

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

17 (1) in paragraph (1)(C)—

18 (A) by striking “To the extent available
19 and accessible, the” and inserting “The”; and

20 (B) by inserting “the most recent informa-
21 tion available regarding” after “including”; and

22 (2) in paragraph (5)(D)—

23 (A) by inserting “a copy of the record is”
24 before “supplied”; and

1 (B) by inserting “, and is supplied to the
2 child at no cost at the time the child leaves fos-
3 ter care if the child is leaving foster care by
4 reason of having attained the age of majority
5 under State law” before the semicolon.

6 **SEC. 9. RIGHT TO BE HEARD IN FOSTER CARE PRO-**
7 **CEEDINGS.**

8 (a) IN GENERAL.—Section 475(5)(G) of the Social
9 Security Act (42 U.S.C. 675(5)(G)) is amended—

10 (1) by striking “an opportunity” and inserting
11 “a right”;

12 (2) by striking “and opportunity” and inserting
13 “and right”; and

14 (3) by striking “review or hearing” each place
15 it appears and inserting “proceeding”.

16 (b) NOTICE OF PROCEEDING.—Section 438(b) of
17 such Act (42 U.S.C. 638(b)) is amended by inserting
18 “shall have in effect a rule requiring State courts to notify
19 foster parents, pre-adoptive parents, and relative care-
20 givers of a child in foster care under the responsibility of
21 the State of any proceeding to be held with respect to the
22 child, and” after “highest State court”.

23 **SEC. 10. COURT IMPROVEMENT.**

24 Section 438(a)(1) of the Social Security Act (42
25 U.S.C. 629h(a)(1)) is amended—

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

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

4 “(E) that determine the best strategy to
5 use to expedite the interstate placement of chil-
6 dren, including—

7 “(i) requiring courts in different
8 States to cooperate in the sharing of infor-
9 mation;

10 “(ii) authorizing courts to obtain in-
11 formation and testimony from agencies
12 and parties in other States without requir-
13 ing interstate travel by the agencies and
14 parties; and

15 “(iii) permitting the participation of
16 parents, children, other necessary parties,
17 and attorneys in cases involving interstate
18 placement without requiring their inter-
19 state travel; and”.

20 **SEC. 11. REASONABLE EFFORTS.**

21 (a) IN GENERAL.—Section 471(a)(15)(C) of the So-
22 cial Security Act (42 U.S.C. 671(a)(15)(C)) is amended
23 by inserting “(including, if appropriate, through an inter-
24 state placement)” after “accordance with the permanency
25 plan”.

1 (b) PERMANENCY HEARING.—Section
2 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i))
3 is amended by inserting “, which considers in-State and
4 out-of-State permanent placement options for the child,”
5 before “shall”.

6 (c) CONCURRENT PLANNING.—Section
7 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is
8 amended by inserting “, including identifying appropriate
9 out-of-State relatives and placements” before “may”.

10 **SEC. 12. CASE PLANS.**

11 Section 475(1)(E) of the Social Security Act (42
12 U.S.C. 675(1)(E)) is amended by inserting “to facilitate
13 orderly and timely in-State and interstate placements” be-
14 fore the period.

15 **SEC. 13. CASE REVIEW SYSTEM.**

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

18 (1) by inserting “, in the case of a child who
19 will not be returned to the parent, the hearing shall
20 consider in-State and out-of-State placement op-
21 tions,” after “living arrangement”; and

22 (2) by inserting “the hearing shall determine”
23 before “whether the”.

1 **SEC. 14. USE OF INTERJURISDICTIONAL RESOURCES.**

2 Section 422(b)(12) of the Social Security Act (42
3 U.S.C. 622(b)(12)) is amended—

4 (1) by striking “develop plans for the” and in-
5 serting “make”;

6 (2) by inserting “(including through contracts
7 for the purchase of services)” after “resources”; and

8 (3) by inserting “, and shall eliminate legal bar-
9 riers,” before “to facilitate”.

10 **SEC. 15. GAO STUDY ON CHILD WELFARE BACKGROUND**
11 **CHECKS.**

12 (a) STUDY.—The Comptroller General of the United
13 States shall conduct a study of background checks that
14 are performed for the purpose of determining the appro-
15 priateness of placing in a foster or adoptive home a child
16 who is under the custody of a State. The study shall re-
17 view the policies and practices of States in order to—

18 (1) identify the most common delays in the
19 background clearance process and where in the proc-
20 ess the delays occur;

21 (2) describe when background checks are initi-
22 ated;

23 (3) determine which of local, State, or Federal
24 (such as FBI) background checks are used, how
25 long it takes, on average, for each kind of check to
26 be processed, which crimes or other events are in-

1 cluded in each kind of check, how the States differ
2 in classifying the crimes and other events checked,
3 and how the information revealed by the checks is
4 used in determining eligibility to act as a foster or
5 adoptive parent;

6 (4) examine the barriers child welfare agencies
7 face in accessing criminal background check infor-
8 mation;

9 (5) examine the use of the latest information-
10 sharing technology, including electronic
11 fingerprinting and participation in the Integrated
12 Automated Fingerprinting Information System;

13 (6) identify the varied uses of such technology
14 for child welfare purposes as opposed to criminal
15 justice purposes; and

16 (7) recommend best practices that can increase
17 the speed, efficiency, and accuracy of child welfare
18 background checks at all levels of government.

19 (b) REPORT TO THE CONGRESS.—Within 12 months
20 after the date of the enactment of this Act, the Comp-
21 troller General of the United States shall submit to the
22 Committees on Ways and Means and on Education and
23 the Workforce of the House of Representatives and the
24 Committees on Finance and on Health, Education, Labor,

1 and Pensions of the Senate a report which contains the
2 results of the study required by subsection (a).

3 **SEC. 16. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Except as otherwise provided in
5 this section, the amendments made by this Act shall take
6 effect on October 1, 2004, and shall apply to payments
7 under parts B and E of title IV of the Social Security
8 Act for calendar quarters beginning on or after such date,
9 without regard to whether regulations to implement the
10 amendments are promulgated by such date.

11 (b) ELIMINATION OF OPT-OUT.—The amendments
12 made by section 5(b) shall take effect on October 1, 2006,
13 and shall apply to payments under part E of title IV of
14 the Social Security Act for calendar quarters beginning
15 on or after such date, without regard to whether regula-
16 tions to implement the amendments are promulgated by
17 such date.

18 (c) DELAY PERMITTED IF STATE LEGISLATION RE-
19 QUIRED.—If the Secretary of Health and Human Services
20 determines that State legislation (other than legislation
21 appropriating funds) is required in order for a State plan
22 under part B or E of title IV of the Social Security Act
23 to meet the additional requirements imposed by the
24 amendments made by a provision of this Act, the plan
25 shall not be regarded as failing to meet any of the addi-

1 tional requirements before the 1st day of the 1st calendar
2 quarter beginning after the first regular session of the
3 State legislature that begins after the date of the enact-
4 ment of this Act (or, in the case of the amendments made
5 by section 5(b), the 1st day of the 1st calendar quarter
6 beginning after the first such regular session that begins
7 after the effective date of such section). If the State has
8 a 2-year legislative session, each year of the session is
9 deemed to be a separate regular session of the State legis-
10 lature.

Passed the House of Representatives October 5,
2004.

Attest:

JEFF TRANDAHL,

Clerk.