

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5436

To improve foster care court capacity through loan forgiveness and performance measurement.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2006

Mr. SCHIFF (for himself and Ms. HART) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce and Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve foster care court capacity through loan forgiveness and performance measurement.

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 “Fostering Our Future  
5 Act of 2006”.

1 **SEC. 2. IMPROVEMENTS TO COURTS.**

2 (a) IN GENERAL.—Section 13712(b) of the Omnibus  
3 Budget Reconciliation Act of 1993 (42 U.S.C. 629b) is  
4 amended to read as follows:

5 “(b) ELIGIBILITY.—In order to be eligible for a grant  
6 under this section:

7 “(1) APPLICATION.—A highest State court  
8 shall submit to the Secretary an application at such  
9 time, in such form, and including such information  
10 and assurances as the Secretary shall require.

11 “(2) MEASURES OF COURT PERFORMANCE.—  
12 There shall be in effect in the State such laws and  
13 procedures as are necessary to ensure that the  
14 courts of the State measure the following with re-  
15 spect to children under the jurisdiction of the courts:

16 “(A) The percentage of children who do  
17 not have a subsequent petition of maltreatment  
18 filed in court after the initial such petition is  
19 filed.

20 “(B) The percentage of children who are  
21 the subject of additional allegations of maltreat-  
22 ment within 12 months after the original peti-  
23 tion was closed.

24 “(C) The percentages of children who  
25 reach legal permanency within 6 months after  
26 removal, within 12 months thereafter, within 18

1 months thereafter, and within 24 months there-  
2 after.

3 “(D) The percentage of children who do  
4 not reach permanency in the foster care system.

5 “(E) The percentages of children who re-  
6 enter foster care pursuant to court order within  
7 12 months after being returned to their fami-  
8 lies, and within 24 months thereafter.

9 “(F) The percentages of children who re-  
10 turn to foster care pursuant to court order  
11 within 12 months after being adopted or placed  
12 with an individual or couple who are permanent  
13 guardians, and within 24 months thereafter.

14 “(G) The percentages of children who are  
15 transferred among 1, 2, 3, or more placements  
16 while under court jurisdiction, distinguishing,  
17 where possible, between placements in and out  
18 of a child’s own home from multiple placements  
19 in a variety of environments.

20 “(H) The percentage of cases in which  
21 both parents receive written service of process  
22 within the required time standards or where no-  
23 tice of hearing has been waived by parties.

24 “(I) The percentage of cases in which  
25 there is documentation that timely and proper

1 notice is given to parties in advance of the next  
2 hearing.

3 “(J) The percentage of cases in which chil-  
4 dren who have attained 10 years of age receive  
5 notice of the legal proceedings in their depend-  
6 ency case; the percentage of cases in which chil-  
7 dren who have attained 10 years of age are  
8 present in court and afforded an opportunity to  
9 be heard in their own cases; and the percentage  
10 of cases in which children have legal representa-  
11 tion.

12 “(K) The percentage of cases in which the  
13 court reviews case plans within established time  
14 guidelines.

15 “(L) The percentage of children receiving  
16 legal counsel, guardians ad litem, or court-ap-  
17 pointed special advocates before the preliminary  
18 protective hearing or equivalent, with separate  
19 measures of the percentages of each type of  
20 representation and of whether the representa-  
21 tion was received within established time guide-  
22 lines, within 5 days after the adoption petition  
23 is filed, within 6 through 10 days after the fil-  
24 ing, and within more than 10 days after the fil-  
25 ing.

1           “(M) The percentage of cases in which  
2 counsel for parents are appointed before the  
3 preliminary protective hearing or equivalent,  
4 with separate measures of the percentages in  
5 which such appointments are made within es-  
6 tablished time guidelines, within 5 days after  
7 the adoption petition is filed, within 6 through  
8 10 days after the filing, and within more than  
9 10 days after the filing.

10           “(N) The percentage of cases in which  
11 legal counsel for children is appointed on or be-  
12 fore the first court appearance, and the per-  
13 centage of cases in which legal counsel for chil-  
14 dren changes, and the number of changes in-  
15 volved.

16           “(O) The percentage of cases in which  
17 legal counsel for parents changes, and the num-  
18 ber of changes involved.

19           “(P) The percentage of cases in which  
20 legal counsel for parents, children, and agencies  
21 are present at each hearing.

22           “(Q) The percentages of children for whom  
23 all hearings are heard by 1 or more judicial of-  
24 ficers, and the number of judicial officers hear-  
25 ing the case.

1           “(R) The average and median times from  
2 filing the original petition to adjudication.

3           “(S) The average and median times from  
4 filing the original petition to disposition.

5           “(T) The percentages of cases that are ad-  
6 judicated within 30 days after the filing of the  
7 dependency petition, within 60 days thereafter,  
8 and within 90 days thereafter.

9           “(U) The percentages of cases that receive  
10 a disposition within 10 days after the depend-  
11 ency adjudication, within 30 days thereafter,  
12 and within 90 days thereafter.

13           “(V) The percentage of cases where chil-  
14 dren are successfully served in the home and  
15 not detained; the average and median times to  
16 reunification; and the percentage of cases where  
17 children are not successfully reunified.

18           “(W) The average and median times from  
19 the filing of the original petition to permanent  
20 placement.

21           “(X) The average and median times from  
22 the filing of the original petition to finalized  
23 termination of parental rights.

24           “(Y) The percentages of cases for which  
25 the termination petition is filed within 3 months

1 after the dependency disposition, within 6  
2 months thereafter, within 12 months thereafter,  
3 and within 18 months thereafter.

4 “(Z) The percentage of cases that receive  
5 a termination order within 30 days after the fil-  
6 ing of the termination petition, within 90 days  
7 thereafter, within 120 days thereafter, and  
8 within 180 days thereafter.

9 “(AA) The percentages of cases for which  
10 an adoption petition is filed within 1 month  
11 after the termination order, within 3 months  
12 thereafter, and within 6 months thereafter.

13 “(BB) The percentages of cases for which  
14 the adoption is finalized within 1 month after  
15 the adoption petition is filed, within 3 months  
16 thereafter, within 6 months thereafter, and  
17 within 12 months thereafter.

18 “(CC) The percentage of hearings (by  
19 hearing type) not completed within timeframes  
20 set forth in statute or court rules, including,  
21 where possible, the reason for noncompletion.”.

22 (b) STUDENT LOAN REPAYMENT FOR FAMILY LAW,  
23 DEPENDENCY, AND DOMESTIC RELATIONS ATTOR-  
24 NEYS.—

1           (1) IN GENERAL.—The Higher Education Act  
2           of 1965 is amended by inserting after section 428K  
3           (20 U.S.C. 1078–11) the following new section:

4   **“SEC. 428L. LOAN FORGIVENESS FOR FAMILY LAW, DE-**  
5                           **PENDENCY, AND DOMESTIC RELATIONS AT-**  
6                           **TORNEYS.**

7           “(a) PURPOSE.—The purpose of this section is to en-  
8           courage qualified individuals to enter and continue em-  
9           ployment as family law, dependency, and domestic rela-  
10          tions attorneys.

11          “(b) LOAN FORGIVENESS.—

12                  “(1) LOAN FORGIVENESS AUTHORIZED.—The  
13                  Secretary is authorized to forgive, in accordance  
14                  with this section and the agreement described in  
15                  subsection (e), the student loan debt of an eligible  
16                  borrower in the amount specified in subsection (d)  
17                  and for the period specified in such agreement.

18                  “(2) METHOD OF LOAN FORGIVENESS.—To  
19                  provide the loan forgiveness authorized in paragraph  
20                  (1), the Secretary is authorized to carry out a pro-  
21                  gram—

22                          “(A) through the holder of the loan, to as-  
23                          sume the obligation to repay a qualified loan  
24                          amount for a loan made under part B of this  
25                          title; and

1                   “(B) to cancel a qualified loan amount for  
2                   a loan made under part D of this title.

3           “(c) ELIGIBLE BORROWER.—The Secretary is au-  
4 thorized to provided loan forgiveness under this section to  
5 any individual who—

6                   “(1) is employed full-time as a family law, de-  
7                   pendency, or domestic relations attorney; and

8                   “(2) is not in default on a loan for which the  
9                   borrower seeks forgiveness.

10           “(d) LOAN FORGIVENESS AMOUNT.—The Secretary  
11 may, from funds appropriated under subsection (l), forgive  
12 the loan obligation of an eligible borrower in accordance  
13 with such terms, limitations, and conditions as may be  
14 mutually agreed upon by such borrower and the Secretary  
15 in the agreement described in subsection (e), except that  
16 the amount paid by the Secretary under this section shall  
17 not exceed—

18                   “(1) \$6,000 in any calendar year for any bor-  
19                   rower; or

20                   “(2) \$50,000 in the aggregate for any bor-  
21                   rower.

22           “(e) LOAN FORGIVENESS AGREEMENT.—

23                   “(1) TERMS OF AGREEMENT.—The Secretary  
24                   shall not provide loan forgiveness to an eligible bor-

1       rower unless the borrower enters into a written  
2       agreement with the Secretary which provides that—

3               “(A) the borrower shall remain employed  
4               full-time as a family law, dependency, or domes-  
5               tic relations attorney for a period of service  
6               specified in the agreement (but not less than 3  
7               years), unless involuntarily separated from that  
8               employment;

9               “(B) if the borrower is involuntarily sepa-  
10              rated from the employment described in sub-  
11              paragraph (A) on account of misconduct, or vol-  
12              untarily separates from that employment, be-  
13              fore the end of the period specified in the agree-  
14              ment, the borrower shall repay the Secretary  
15              the amount of any benefits received by such  
16              borrower under this section;

17              “(C) if the borrower is required to repay  
18              an amount to the Secretary under subpara-  
19              graph (B) and fails to repay such amount, a  
20              sum equal to such amount shall be recoverable  
21              by the Government from the borrower (or such  
22              borrower’s estate, if applicable) by such method  
23              as is provided by law for the recovery of  
24              amounts owing to the Government;

1           “(D) the Secretary may waive, in whole or  
2           in part, a right of recovery under this sub-  
3           section if it is shown that recovery would be  
4           against equity and good conscience or against  
5           the public interest; and

6           “(E) the Secretary shall provide loan for-  
7           giveness under this section for the period of the  
8           agreement, subject to the availability of appro-  
9           priations.

10          “(2) AGREEMENT RENEWAL.—Upon completion  
11          by an eligible borrower of the period of service re-  
12          quired under the agreement described in paragraph  
13          (1), the Secretary may renew such agreement with  
14          the eligible borrower for a successive period of serv-  
15          ice to be specified in the renewed agreement (which  
16          may be less than 3 years).

17          “(f) REPAYMENTS BY BORROWERS.—Any amount re-  
18          paid by, or recovered from, a borrower (or a borrower’s  
19          estate) under subsection (e)(1)(B) shall be credited to the  
20          appropriation account from which the loan forgiveness  
21          amount involved was originally paid. Any amount so cred-  
22          ited shall be merged with other sums in such account and  
23          shall be available for the same purposes and period, and  
24          subject to the same limitations (if any), as the sums with  
25          which the amount was merged.

1       “(g) APPLICATION FOR LOAN FORGIVENESS.—An el-  
2  igible borrower desiring loan forgiveness under this section  
3  shall submit a complete and accurate application to the  
4  Secretary at such time, in such manner, and containing  
5  such information as the Secretary may require.

6       “(h) PRIORITY.—The Secretary shall provide loan  
7  forgiveness under this section on a first-come, first-served  
8  basis, and subject to the availability of appropriations.

9       “(i) REGULATIONS.—The Secretary is authorized to  
10  issue such regulations as may be necessary to carry out  
11  the provisions of this section.

12       “(j) CONSTRUCTION.—Nothing in this section shall  
13  be construed to authorize the refunding of any repayment  
14  of any loan made by a borrower prior to the date on which  
15  the Secretary entered into an agreement with the borrower  
16  under subsection (e).

17       “(k) DEFINITION.—In this section the term ‘family  
18  law, dependency, or domestic relations attorney’ means an  
19  attorney who works in the field of family law, dependency,  
20  or domestic relations, including juvenile justice, truancy,  
21  child abuse or neglect, adoption, domestic relations, child  
22  support, paternity, and other areas which fall under the  
23  field of family law, dependency, or domestic relations law  
24  as determined by State law.

1       “(1) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 \$20,000,000 for fiscal year 2007 and such sums as may  
4 be necessary for each of the 5 succeeding fiscal years.”.

5           (2) CANCELLATION OF LOANS.—

6           (A) AMENDMENT.—Section 465(a)(2)(F)  
7 of the Higher Education Act of 1965 (20  
8 U.S.C. 1087ee(a)(2)(F)) is amended by insert-  
9 ing “, or as a full-time family law, dependency,  
10 or domestic relations attorney (as defined in  
11 section 428L)” after “agencies”.

12           (B) EFFECTIVE DATE.—The amendment  
13 made by this paragraph shall apply to—

14           (i) eligible loans made before, on, or  
15 after the date of enactment of this Act;  
16 and

17           (ii) service as a family law, depend-  
18 ency, or domestic relations attorney that is  
19 provided on or after the date of enactment  
20 of this Act.

21           (C) CONSTRUCTION.—Nothing in this  
22 paragraph shall be construed to authorize the  
23 refunding of any repayment of a loan made by  
24 a borrower prior to the date on which the bor-  
25 rower became eligible for cancellation under

1 section 465(a) of the Higher Education Act of  
2 1965 (20 U.S.C. 1087ee(a)).

3 (c) GAO STUDY.—

4 (1) IN GENERAL.—The Comptroller General of  
5 the United States shall conduct a study that com-  
6 pares States with respect to each of the following:

7 (A) The legal representation provided for  
8 children.

9 (B) Children’s participation in their own  
10 cases.

11 (C) Preparation of dependency court  
12 judges.

13 (D) Case tracking and performance meas-  
14 urement.

15 (E) Statewide collaborative foster care  
16 councils.

17 (2) REPORT.—Not later than 1 year after the  
18 date of the enactment of this Act, the Comptroller  
19 General shall submit to the Committee on the Judi-  
20 ciary of the House of Representatives a written re-  
21 port that contains the results of the study required  
22 by paragraph (1).

23 (d) SENSE OF THE CONGRESS WITH RESPECT TO  
24 COURT ACCOUNTABILITY FOR IMPROVED CHILD OUT-  
25 COMES.—It is the sense of the Congress that State judicial

1 leadership should use the measures of court performance  
2 described in section 13712(b)(2) of the Omnibus Budget  
3 Reconciliation Act of 1993 (as amended by subsection (a)  
4 of this section) to ensure accountability by every court for  
5 improved outcomes for children, and to inform decisions  
6 about allocating resources across the court system.

7       (e) SENSE OF THE CONGRESS WITH RESPECT TO  
8 THE ORGANIZATION OF STATE DEPENDENCY COURTS.—  
9 It is the sense of the Congress that State courts should  
10 be organized to enable children and parents to have legal  
11 representation and participate in a meaningful way in  
12 their own court proceedings.

13       (f) SENSE OF THE CONGRESS WITH RESPECT TO  
14 BUILDING THE POOL OF ATTORNEYS QUALIFIED TO  
15 HANDLE CASES IN DEPENDENCY COURTS.—It is the  
16 sense of the Congress that law schools, bar associations,  
17 and law firms should help build the pool of qualified attor-  
18 neys available to children and parents in dependency  
19 courts.

20       (g) SENSE OF THE CONGRESS WITH RESPECT TO  
21 TRAINING, CASELOADS, AND COMPENSATION OF ATTOR-  
22 NEYS FOR CHILDREN.—It is the sense of the Congress  
23 that attorneys for children should have adequate training,

- 1 reasonable caseloads, and receive reasonable and adequate
- 2 compensation.

