

109TH CONGRESS
2^D SESSION

S. 2999

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.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2006

Mr. DEWINE (for himself, Mr. ROCKEFELLER, and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Timely Inter-
5 state Placement of Foster Children Act of 2006”.

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

7 It is the sense of the Congress that—

8 (1) the States should expeditiously ratify the re-
9 vised Interstate Compact for the Placement of Chil-

1 dren recently promulgated by the American Public
2 Human Services Association;

3 (2) this Act and the revised Interstate Compact
4 for the Placement of Children should not apply to
5 those seeking placement in a licensed residential fa-
6 cility primarily to access clinical mental health serv-
7 ices;

8 (3) the States should recognize and implement
9 the deadlines for the completion and approval of
10 home studies as provided in section 4 to move chil-
11 dren more quickly into safe, permanent homes; and

12 (4) Federal policy should encourage the safe
13 and expedited placement of children into safe, per-
14 manent homes across State lines.

15 **SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE**
16 **PLACEMENT OF CHILDREN.**

17 Section 471(a) of the Social Security Act (42 U.S.C.
18 671(a)) is amended—

19 (1) by striking “and” at the end of paragraph
20 (23);

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

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

24 “(25) provide that the State shall have in effect
25 procedures for the orderly and timely interstate

1 placement of children; and procedures implemented
 2 in accordance with an interstate compact, if incor-
 3 porating with the procedures prescribed by para-
 4 graph (26), shall be considered to satisfy the re-
 5 quirement of this paragraph.”.

6 **SEC. 4. HOME STUDIES.**

7 (a) ORDERLY PROCESS.—

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

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

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

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

16 “(26) provides that—

17 “(A)(i) within 60 days after the State re-
 18 ceives from another State a request to conduct
 19 a study of a home environment for purposes of
 20 assessing the safety and suitability of placing a
 21 child in the home, the State shall, directly or by
 22 contract—

23 “(I) conduct and complete the study;

24 and

1 “(II) return to the other State a re-
2 port on the results of the study, which
3 shall address the extent to which place-
4 ment in the home would meet the needs of
5 the child; and

6 “(ii) in the case of a home study begun on
7 or before September 30, 2008, if the State fails
8 to comply with clause (i) within the 60-day pe-
9 riod as a result of circumstances beyond the
10 control of the State (such as a failure by a Fed-
11 eral agency to provide the results of a back-
12 ground check, or the failure by any entity to
13 provide completed medical forms, requested by
14 the State at least 45 days before the end of the
15 60-day period), the State shall have 75 days to
16 comply with clause (i) if the State documents
17 the circumstances involved and certifies that
18 completing the home study is in the best inter-
19 ests of the child; except that

20 “(iii) this subparagraph shall not be con-
21 strued to require the State to have completed,
22 within the applicable period, the parts of the
23 home study involving the education and train-
24 ing of the prospective foster or adoptive par-
25 ents;

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

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

20 (2) REPORT TO THE CONGRESS.—Within 12
21 months after the date of the enactment of this Act,
22 the Secretary of Health and Human Services shall
23 submit to the Committee on Ways and Means of the
24 House of Representatives and the Committee on Fi-
25 nance of the Senate a written report on—

1 (A) how frequently States need the ex-
2 tended 75-day period provided for in clause (ii)
3 of section 471(a)(26)(A) of the Social Security
4 Act in order to comply with clause (i) of such
5 section;

6 (B) the reasons given for utilizing the ex-
7 tended compliance period;

8 (C) the extent to which utilizing the ex-
9 tended compliance period leads to the resolution
10 of the circumstances beyond the control of the
11 State; and

12 (D) the actions taken by States and any
13 relevant Federal agencies to resolve the need
14 for the extended compliance period.

15 (3) SENSE OF THE CONGRESS.—It is the sense
16 of the Congress that each State should—

17 (A) use private agencies to conduct home
18 studies when doing so is necessary to meet the
19 requirements of section 471(a)(26) of the Social
20 Security Act; and

21 (B) give full faith and credit to any home
22 study report completed by any other State or
23 an Indian tribe with respect to the placement of
24 a child in foster care or for adoption.

1 (b) **TIMELY INTERSTATE HOME STUDY INCENTIVE**
 2 **PAYMENTS.**—Part E of title IV of the Social Security Act
 3 (42 U.S.C. 670–679b) is amended by inserting after sec-
 4 tion 473A the following:

5 **“SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE**
 6 **PAYMENTS.**

7 “(a) **GRANT AUTHORITY.**—The Secretary shall make
 8 a grant to each State that is a home study incentive-eli-
 9 gible State for a fiscal year in an amount equal to the timely
 10 interstate home study incentive payment payable to the
 11 State under this section for the fiscal year, which shall
 12 be payable in the immediately succeeding fiscal year.

13 “(b) **HOME STUDY INCENTIVE-ELIGIBLE STATE.**—
 14 A State is a home study incentive-eligible State for a fiscal
 15 year if—

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

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

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

23 “(c) **DATA REQUIREMENTS.**—

24 “(1) **IN GENERAL.**—A State is in compliance
 25 with this subsection for a fiscal year if the State has

1 provided to the Secretary a written report, covering
2 the preceding fiscal year, that specifies—

3 “(A) the total number of interstate home
4 studies requested by the State with respect to
5 children in foster care under the responsibility
6 of the State, and with respect to each such
7 study, the identity of the other State involved;

8 “(B) the total number of timely interstate
9 home studies completed by the State with re-
10 spect to children in foster care under the re-
11 sponsibility of other States, and with respect to
12 each such study, the identity of the other State
13 involved; and

14 “(C) such other information as the Sec-
15 retary may require in order to determine wheth-
16 er the State is a home study incentive-eligible
17 State.

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

24 “(d) TIMELY INTERSTATE HOME STUDY INCENTIVE
25 PAYMENTS.—

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

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

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

20 “(B) the total of such otherwise payable
21 incentive payments.

22 “(3) APPROPRIATIONS AVAILABLE FOR UNPAID
23 INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

24 “(A) IN GENERAL.—If payments under
25 this section are reduced under paragraph (2) or

1 subparagraph (B) of this paragraph for a fiscal
2 year, then, before making any other payment
3 under this section for the next fiscal year, the
4 Secretary shall pay each State whose payment
5 was so reduced an amount equal to the total
6 amount of the reductions which applied to the
7 State, subject to subparagraph (B) of this para-
8 graph.

9 “(B) PRO RATA ADJUSTMENT IF INSUFFI-
10 CIENT FUNDS AVAILABLE.—If the total amount
11 of payments otherwise payable under subpara-
12 graph (A) of this paragraph for a fiscal year ex-
13 ceeds the total of the amounts made available
14 pursuant to subsection (h) for the fiscal year,
15 the amount of each such payment shall be re-
16 duced by a percentage equal to—

17 “(i) the total of the amounts so made
18 available; divided by

19 “(ii) the total of such otherwise pay-
20 able payments.

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

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

10 “(g) DEFINITIONS.—In this section:

11 “(1) HOME STUDY.—The term ‘home study’
12 means an evaluation of a home environment con-
13 ducted in accordance with applicable requirements of
14 the State in which the home is located, to determine
15 whether a proposed placement of a child would meet
16 the individual needs of the child, including the
17 child’s safety, permanency, health, well-being, and
18 mental, emotional, and physical development.

19 “(2) INTERSTATE HOME STUDY.—The term
20 ‘interstate home study’ means a home study con-
21 ducted by a State at the request of another State,
22 to facilitate an adoptive or foster placement in the
23 State of a child in foster care under the responsi-
24 bility of the State.

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

11 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
 12 PRIATIONS.—

13 “(1) IN GENERAL.—For payments under this
 14 section, there are authorized to be appropriated to
 15 the Secretary—

16 “(A) \$10,000,000 for fiscal year 2007;

17 “(B) \$10,000,000 for fiscal year 2008;

18 “(C) \$10,000,000 for fiscal year 2009; and

19 “(D) \$10,000,000 for fiscal year 2010.

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

23 “(c) REPEALER.—Effective October 1, 2010, section
 24 473B of the Social Security Act is repealed.

1 **SEC. 5. SENSE OF THE CONGRESS.**

2 It is the sense of the Congress that State agencies
3 should fully cooperate with any court which has authority
4 with respect to the placement of a child in foster care or
5 for adoption, for the purpose of locating a parent of the
6 child, and such cooperation should include making avail-
7 able all information obtained from the Federal Parent Lo-
8 cator Service.

9 **SEC. 6. CASEWORKER VISITS.**

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

17 (b) INCREASED VISITS.—Section 475(5)(A)(ii) of
18 such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
19 “12” and inserting “6”.

20 **SEC. 7. HEALTH AND EDUCATION RECORDS.**

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

23 (1) in paragraph (1)(C)—

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

1 (B) by inserting “the most recent informa-
 2 tion available regarding” after “including”; and
 3 (2) in paragraph (5)(D)—

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

6 (B) by inserting “, and is supplied to the
 7 child at no cost at the time the child leaves fos-
 8 ter care if the child is leaving foster care by
 9 reason of having attained the age of majority
 10 under State law” before the semicolon.

11 **SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PRO-**
 12 **CEEDINGS.**

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

15 (1) by striking “an opportunity” and inserting
 16 “a right”;

17 (2) by striking “and opportunity” and inserting
 18 “and right”; and

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

21 (b) NOTICE OF PROCEEDING.—Section 438(b) of
 22 such Act (42 U.S.C. 638(b)) is amended by inserting
 23 “shall have in effect a rule requiring State courts to en-
 24 sure that foster parents, pre-adoptive parents, and relative
 25 caregivers of a child in foster care under the responsibility

1 of the State are notified of any proceeding to be held with
2 respect to the child, and” after “highest State court”.

3 **SEC. 9. COURT IMPROVEMENT.**

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

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

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

9 “(E) that determine the best strategy to
10 use to expedite the interstate placement of chil-
11 dren, including—

12 “(i) requiring courts in different
13 States to cooperate in the sharing of infor-
14 mation;

15 “(ii) authorizing courts to obtain in-
16 formation and testimony from agencies
17 and parties in other States without requir-
18 ing interstate travel by the agencies and
19 parties; and

20 “(iii) permitting the participation of
21 parents, children, other necessary parties,
22 and attorneys in cases involving interstate
23 placement without requiring their inter-
24 state travel; and”.

1 **SEC. 10. REASONABLE EFFORTS.**

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

7 (b) PERMANENCY HEARING.—Section
8 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i))
9 is amended by inserting “, which considers in-State and
10 out-of-State permanent placement options for the child,”
11 before “shall”.

12 (c) CONCURRENT PLANNING.—Section
13 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is
14 amended by inserting “, including identifying appropriate
15 in-State and out-of-State placements” before “may”.

16 **SEC. 11. CASE PLANS.**

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

21 **SEC. 12. CASE REVIEW SYSTEM.**

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

24 (1) by inserting “, in the case of a child who
25 will not be returned to the parent, the hearing shall

1 consider in-State and out-of-State placement op-
2 tions,” after “living arrangement”; and

3 (2) by inserting “the hearing shall determine”
4 before “whether the”.

5 **SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.**

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

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

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

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

14 **SEC. 14. EFFECTIVE DATE.**

15 (a) IN GENERAL.—Except as otherwise provided in
16 this section, the amendments made by this Act shall take
17 effect on October 1, 2006, and shall apply to payments
18 under parts B and E of title IV of the Social Security
19 Act for calendar quarters beginning on or after such date,
20 without regard to whether regulations to implement the
21 amendments are promulgated by such date.

22 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
23 QUIRED.—If the Secretary of Health and Human Services
24 determines that State legislation (other than legislation
25 appropriating funds) is required in order for a State plan

1 under part B or E of title IV of the Social Security Act
2 to meet the additional requirements imposed by the
3 amendments made by a provision of this Act, the plan
4 shall not be regarded as failing to meet any of the addi-
5 tional requirements before the 1st day of the 1st calendar
6 quarter beginning after the first regular session of the
7 State legislature that begins after the date of the enact-
8 ment of this Act. If the State has a 2-year legislative ses-
9 sion, each year of the session is deemed to be a separate
10 regular session of the State legislature.

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