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**Memorandum**

September 15, 2008

**SUBJECT:** Summary and Section-by-Section Description of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893)

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This memorandum provides a section-by-section overview of major provisions included in the Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893).

The bill was introduced by Representative Jim McDermott, with Representative Jerry Weller on September 15, 2008. It incorporates provisions (in whole, or with some amendments) of the Fostering Connections to Success Act (H.R. 6307), as that bill passed the House on June 24, 2008, and provisions (in whole or with some amendment) of the Improved Adoption Incentives and Relative Guardianship Support Act of 2008 (S. 3038), as that bill was approved by the Senate Finance Committee on September 10, 2008. If you have any questions, please feel free to call (7-2324) or e-mail ([estoltzfus@crs.loc.gov](mailto:estoltzfus@crs.loc.gov)).

## **Fostering Connections to Success Act and Increasing Adoptions Act of 2008**

*As introduced in the House on September 15, 2008. Any references to Title IV-E or Title IV-B are to those parts of the Social Security Act.*

As shown below, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893) is divided into six titles, most with multiple sections, and would make the following changes:

### **Title I — Connecting and Supporting Relative Caregivers**

#### **Section 101: Kinship Guardianship Assistance Payment For Children**

- **Permit states to claim federal reimbursement (under Title IV-E) for a part of the cost of providing kinship guardianship assistance to every**

eligible child who leaves foster care for placement with a grandparent or other relative who has chosen to become the child's legal guardian.

- **Require that to be eligible for federal kinship guardianship assistance a child must have been eligible to receive federal foster care maintenance payments while living with his or her prospective relative guardian for no less than 6 consecutive months;** (this effectively requires that the prospective relative guardian has met the state foster family home licensing standards and prospective foster parent background checks).
- Further stipulate as conditions of federal eligibility for kinship guardianship assistance that the state must determine that neither being reunited with parents nor adoption are appropriate permanency options for the child; that the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and that any youth age 14 or older was consulted before being placed in the kinship guardianship arrangement.
- Permit states to place a sibling(s) of an eligible child in the same kinship guardianship arrangement and to make kinship guardianship assistance payments on behalf of those siblings.
- Establish that a **kinship guardianship assistance payment** made on behalf of an eligible child **may not be more than the amount the child would receive as a foster care maintenance payment** if he or she remained in a foster family home.
- **Ensure continued categorical Medicaid eligibility** for children receiving federal kinship guardianship assistance.
- **Authorize states to use federal funds** under the Chafee Foster Care Independence program **to provide services and supports to youth who – after reaching their 16<sup>th</sup> birthday – leave foster care for adoption or placement in kinship guardianship** and permit these same youths to be eligible for Education and Training Vouchers.

## **Section 102: Family Connection Grants**

- **Appropriate mandatory funding of \$15 million (for each of FY2009-FY2013) for Family Connection Grants** (to be awarded on a competitive basis to public child welfare agencies or eligible private, non-profit organizations) for the support of **kinship navigator programs, intensive family-finding efforts, family group decision-making meetings** (which, when appropriate, must safely address issues of domestic violence); and **residential family treatment centers that enable parents and children to live together in a safe environment** for no less than 6 months and which provide a full range of services to meet the family's needs (onsite or by referral), including substance abuse treatment.

- Require the U.S. Department of Health and Human Services (HHS) to set aside no less than 3% of the total annual funding for Family Connection grants for evaluation of grantee activities; stipulate that **no less than \$5 million of the total funding for the Family Connections Grants must be awarded annually for support of kinship navigator programs**; and permit HHS to set-aside 2% of total funding for the grants for technical assistance to grantees
- Provide that HHS may make no more than 30 new Family Connection grants each year, may not award these grants for less than 1 year nor more than 3 years and that it must provide 75% of the cost of a grantee’s approved program in years 1 and 2 of the grant and 50% in year three.
- Rename Title IV-B, Subpart 1 of the Social Security Act (which is now named “Child Welfare Services”) as the “Stephanie Tubbs Jones Child Welfare Services Program”

### **Section 103: Notification of Relatives**

- **Require states** (subject to domestic violence exceptions), **within 30 days of removing a child from the custody of his or her parent(s) to exercise due diligence to identify all adult grandparents and other adult relatives of the child and to provide them with 1) notice of the child’s removal from parental custody; 2) an explanation of their options for participating in the care and placement of the child; 3) requirements that must be met to be a licensed foster family home and additional services and support for children placed in licensed homes; and, 4) if state has opted to provide kinship guardianship assistance, a description of how the relative can enter into a kinship guardianship assistance agreement.**

### **Section 104: Licensing Standards for Relatives**

- **Codify existing federal guidance permitting states to waive “non-safety” licensing standards (as determined by the state) for relative foster family caregivers, but only on a case-by-case basis and for a specific child.**
- **Require HHS to prepare and submit to the Senate Finance Committee and the House Committee on Ways and Means a report on licensing of relative foster family homes, including – 1) the number and percentage of children living in licensed relative foster family homes and those living in unlicensed relative foster family homes; 2) frequency of state use of waivers of “non-safety” standards and the type of non-safety standards waived; 3) assessment of how the use of such waivers have affected safety, permanence, and well-being outcomes for children in foster care; 4) reasons why relative foster family homes may remain unlicensed; and 5) recommendations for administrative or legislative actions to increase the share of relative foster family homes that are licensed while ensuring the safety of foster children and improving their permanence and well-being.**

## **Section 105: Authority for Comparisons and Disclosures of Information in the Federal Parent Locator Service for Child Welfare, Foster Care, and Adoption Assistance Program Purposes**

- Permit state child welfare agencies direct access to the Federal Parent Locator Service.

## **Title II — Improving Outcomes for Children in Foster Care**

### **Section 201: State Option for Children in Foster Care, and Certain Children in Adoptive or Guardianship Placement, After Attaining Age 18**

- **Permit states (as of October 1, 2010) to extend federal (Title IV-E) assistance to otherwise eligible youth remaining in foster care after their 18<sup>th</sup> birthday and to youth who, after reaching their 16<sup>th</sup> birthday, exited foster care to either kinship guardianship assistance or to adoption**, provided such individuals have not yet reached their 21<sup>st</sup> birthday and are in school, employed, in another activity designed to promote, or remove barriers to, employment, or are incapable of participating in any of those activities because of a documented medical condition.
- **Except as described above, the term “child” is defined as an individual under the age of 18 for all federal child welfare programs included in the Social Security Act (i.e., Child Welfare Services, Promoting Safe and Stable Families, Foster Care and Adoption Assistance, and Chafee Foster Care Independence Program.) and**
- Permit foster youth who are age 18 or older to retain eligibility for federal foster care support while living in a supervised independent living setting (as must be defined in regulations by HHS);
- Permit states to continue federal kinship guardianship assistance up to age 21 for *any* child who has a mental or physical handicap that the state determines warrants this continued assistance (as is currently the case for adoption assistance).
- Prohibits payment of federal kinship guardianship assistance payments to a relative guardian if the relative guardian is no longer legally responsible for support of the child or if the state determines that the child is no longer receiving support from the relative guardian (as is currently the case with regard to adoptive parents and children receiving adoption assistance).

## **Section 202: Transition Plan for Children Aging Out of Foster Care**

- **Require states to have procedures to ensure that 90 days before a child in foster care reaches his or her 18<sup>th</sup> birthday** (or 90 days before whatever later birthday – up to the 21<sup>st</sup> – the state elects to provide Title IV-E assistance), **the child’s caseworker and other representatives (as appropriate) must help the child develop a personal transition plan** that includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services.

## **Section 203: Short-term Training for Child Welfare Agencies, Relative Guardians, and Court Personnel**

- **Allow states to additionally claim federal reimbursement of the costs of providing short-term training** (that is related to carrying out the Title IV-E foster care and adoption assistance program) **to current or prospective relative guardians, staff of state-licensed or state-approved child welfare agencies, and for certain court or court-related personnel handling abuse and neglect cases;** and
- Phase in a 75% federal reimbursement rate for these relative guardian, private child welfare agency workers, and court or court-related personnel training claims beginning at 55% in FY2009 and rising by 5% annually (until it reaches 75% for all Title IV-E eligible training costs in FY2013).

## **Section 204: Educational Stability**

- Require states to plan for and enable educational stability for children placed in foster care, including by working with the relevant local school authorities;
- Permit a state to claim federal reimbursement for the cost of transporting a child to his/her “school of origin” at the same reimbursement rate as is provided the state for foster care maintenance payments (i.e. the state’s Federal Medical Assistance Percentage, FMAP); and
- **Require a state to provide assurances that each school-age child who receives federal (Title IV-E) assistance** (whether in foster care kinship guardianship or adoption ) **is enrolled in school full-time** (or has completed high school).

## **Section 205: Health Oversight and Coordination Plan**

- **Require each state** (working through the state child welfare agency and the state agency that administers Medicaid) **to ensure coordination of health care services** (including mental health and dental services) **for children in foster care**, including an outline of – 1) the schedule for initial and follow-up health screens; 2) how health needs identified in these screens will be monitored and treated; 3) how medical information for children in care will

be updated and appropriately shared (which may include development of an electronic health record); 4) steps to ensure continuity of health care services (which may include establishment of a medical home for every child in care); 5) oversight of prescription medicines; and 6) how the state actively consults with and involves physicians and other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for them.

## **Section 206: Sibling Placement**

- **Require each state to make reasonable efforts to place siblings removed from their home in the same foster care, kinship guardian, or adoptive placement**, unless the state can document that joint placement is contrary to the safety or well-being of any of the siblings; and
- **In the case of siblings who are not jointly placed, require states to provide for “frequent visitation or other ongoing interaction between the siblings”** unless the state documents that this would be contrary to the safety or well-being of any of the siblings.

## **Title III — Tribal Foster Care and Adoption Access**

### **Section 301: Equitable Access for Foster Care and Adoption Services for Indian Children**

- Effective with the first day of FY2010 (October 1, 2009), **permit tribal entities with an approved Title IV-E plan to make claims** for federal reimbursement of eligible foster care maintenance, adoption assistance (or kinship guardianship assistance) payments and related administrative costs (including training) made on behalf of eligible children who are under tribal responsibility.

### **Section 302: Technical Assistance and Implementation**

- To improve services and permanency outcomes for Indian children and their families, **appropriates \$3 million for FY2009, and for every succeeding fiscal year, to provide technical assistance to tribes and states – regarding tribal administration of child welfare programs and required tribal - state interactions related to serving Indian children – and implementation services to tribes preparing a Title IV-E plan for approval**, including one-time grants of not more than \$300,000.

## **Title IV — Improvement of Incentives for Adoption**

### **Section 401: Adoption Incentives Program**

- **Extend funding authority for Adoption Incentives for five years** (FY2009-FY2013) at \$43 million annually; reset the base number of adoptions a state needs to finalize to earn an incentive award (in each of FY2008-FY2012) to the number it finalized in FY2007; raise the incentive amount available for an increase in the number of older child adoptions (from \$4,000 to \$8,000) and for special needs (younger than 9) adoptions (from \$2,000 to \$4,000); and ensure that states have 24 months to spend any Adoption Incentive awards earned.
- **Require that any appropriated Adoption Incentive funds not needed to make awards for an increase in the *number* of adoptions finalized, must be paid as incentive awards for any state that increases the *rate* at which children are adopted from foster care;** a state must exceed the highest rate of adoptions it previously recorded in any year (beginning with FY2002) to be eligible for such an award in each of FY2008 through FY2012; and the amount of the award would be \$1,000 times the increase in the number of adoptions that would have occurred (as a result of the state exceeding its previous highest adoption rate) if any change in the state foster care caseload is accounted for.

### **Section 402: Promotion of Adoption of Children with Special Needs**

- **Phase-in** (based on age) **elimination of all income, resource, and family structure tests associated with eligibility for federal Title IV-E adoption assistance** (including such tests that were established as part of the prior law Aid to Families with Dependent Children (AFDC) program).
- Provide that as of FY2010 the elimination of all income, resource, and family structure tests currently associated with eligibility for federal Title IV-E adoption assistance applies to any child who has been in care for 60, or more, consecutive months at the time the adoption assistance agreement is finalized.
- Also begin phase-in of these revised adoption assistance eligibility criteria with FY2010 for any child who is age 16 or older at the time his or her adoption assistance agreement is finalized and gradually lower this age, until FY2018, when the new eligibility rules will apply to a child of any age.

### **Section 403: Information on Adoption Tax Credit**

- Require states to provide information to individuals who are adopting a child from foster care, and to those who the state learns are considering such an adoption, of their potential eligibility for the federal Adoption Tax Credit.

## **Title V — Clarification of Uniform Definition of Child and Other Provisions**

### **Section 501: Clarification of Uniform Definition of Child**

- Clarify the uniform definition of qualifying child under the Internal Revenue Code – 1) for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status, to ensure that such an individual is unmarried and is younger than the taxpayer claiming the individual on his/her tax return; 2) for purposes of the child credit, provide that a qualifying child must be the dependent of the taxpayer claiming the credit; and 3) provide that if a taxpayer claiming a qualifying child is not the parent of the individual so claimed, he or she must have an adjusted gross income that is higher than either of the child's parents.

### **Section 502: Investment of Operating Cash**

- In addition to the current investment options, permit the Treasury Department to invest excess operating cash for 90 days in repurchase agreements.

### **Section 503: No Federal Funding to Unlawfully Present Individuals**

- Prohibit any interpretation of the bill that would “alter” any current “prohibitions on Federal payments to individuals who are unlawfully present in the United States.”

## **Title VI — Effective Date**

Unless a different date is stipulated in the Foster Connections to Success and Increasing Adoptions Act of 2008, make the effective date of the amendments made by the bill the date of the bill's enactment; for any state, permit a time-limited exception to the effective date of any requirement added by this bill (under Title IV-B or Title IV-E) if HHS determines that the state must enact legislation (other than legislation to appropriate funds) to comply with a new requirement.