

LEXSEE 103 PL 382

UNITED STATES PUBLIC LAWS  
103rd Congress -- 2nd Session  
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PUBLIC LAW 103-382 [H.R. 6]  
OCTOBER 20, 1994  
IMPROVING AMERICA'S SCHOOLS ACT OF 1994

103 P.L. 382; 108 Stat. 3518; 1994 Enacted H.R. 6; 103 Enacted H.R. 6

*Note: The Multiethnic Placement Act was enacted as Title V, part E of this Act. The relevant sections are presented below.*

An Act

To extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[\*1] SECTION 1. <20 USC 6301 note> SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

[\*2] SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I--AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965  
TITLE II--AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT  
TITLE III--AMENDMENTS TO OTHER ACTS  
TITLE IV--NATIONAL EDUCATION STATISTICS  
TITLE V--MISCELLANEOUS

#### **TITLE V--MISCELLANEOUS PROVISIONS**

#### **[\*\*4056] PART E--MULTIETHNIC PLACEMENT**

Subpart 1--Multiethnic Placement

[\*551] Sec. 551. <42 USC 5115a note> SHORT TITLE.

This subpart may be cited as the "Howard M. Metzenbaum Multiethnic Placement Act of 1994".

[\*552] Sec. 552. FINDINGS AND PURPOSE.

(a) Findings.--The Congress finds that--

- (1) nearly 500,000 children are in foster care in the United States;
- (2) tens of thousands of children in foster care are waiting for adoption;
- (3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

(b) Purpose.--It is the purpose of this subpart to promote the best interests of children by--

(1) decreasing the length of time that children wait to be adopted;

(2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and

(3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

[\*553] Sec. 553. <42 USC 5115a> MULTIETHNIC PLACEMENTS.

(a) Activities.--

(1) Prohibition.-- An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not--

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) Permissible consideration.-- An agency or entity to which paragraph (1) applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

(3) Definition.-- As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved [\*\*4057] to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) Equitable Relief.--Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) Federal Guidance.--Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish guidance to concerned public and private agencies and entities with respect to compliance with this subpart.

(d) Deadline for Compliance.--

(1) In general.-- Except as provided in paragraph (2), an agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this subpart not later than six months after publication of the guidance referred to in subsection (c), or one year after the date of enactment of this Act, whichever occurs first.

(2) Authority to extend deadline.-- If a State demonstrates to the satisfaction of the Secretary that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this subpart, the Secretary may extend the compliance date for the State a reasonable number of days after the close of the first State legislative session beginning after the date the guidance referred to in subsection (c) is published.

(e) Noncompliance Deemed a Civil Rights Violation.--Noncompliance with this subpart is deemed a violation of title VI of the Civil Rights Act of 1964.

(f) No Effect on Indian Child Welfare Act of 1978.--Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

[\*554] Sec. 554. REQUIRED RECRUITMENT EFFORTS FOR CHILD WELFARE SERVICES PROGRAMS.

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended--

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."

#### Subpart 2--Other Provision

[\*555] Sec. 555. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) In General.--Part A of title XI of the Social Security Act (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1122 the following:

"Sec. 1123. <42 USC 1320a-2> EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan [\*\*4058] or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action.

(b) <42 USC 1320a-2 note> Applicability.--The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.