

H. R. 6893

One Hundred Tenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To amend parts B and E of title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fostering Connections to Success and Increasing Adoptions Act of 2008”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—CONNECTING AND SUPPORTING RELATIVE CAREGIVERS

- Sec. 101. Kinship guardianship assistance payments for children.
- Sec. 102. Family connection grants.
- Sec. 103. Notification of relatives.
- Sec. 104. Licensing standards for relatives.
- Sec. 105. Authority for comparisons and disclosures of information in the Federal Parent Locator Service for child welfare, foster care, and adoption assistance program purposes.

TITLE II—IMPROVING OUTCOMES FOR CHILDREN IN FOSTER CARE

- Sec. 201. State option for children in foster care, and certain children in an adoptive or guardianship placement, after attaining age 18.
- Sec. 202. Transition plan for children aging out of foster care.
- Sec. 203. Short-term training for child welfare agencies, relative guardians, and court personnel.
- Sec. 204. Educational stability.
- Sec. 205. Health oversight and coordination plan.
- Sec. 206. Sibling placement.

TITLE III—TRIBAL FOSTER CARE AND ADOPTION ACCESS

- Sec. 301. Equitable access for foster care and adoption services for Indian children in tribal areas.
- Sec. 302. Technical assistance and implementation.

TITLE IV—IMPROVEMENT OF INCENTIVES FOR ADOPTION

- Sec. 401. Adoption incentives program.
- Sec. 402. Promotion of adoption of children with special needs.
- Sec. 403. Information on adoption tax credit.

TITLE V—CLARIFICATION OF UNIFORM DEFINITION OF CHILD AND OTHER PROVISIONS

- Sec. 501. Clarification of uniform definition of child.
- Sec. 502. Investment of operating cash.
- Sec. 503. No Federal funding to unlawfully present individuals.

percentage set forth in such section 474(a)(3)(B), the percentage that shall apply is—

- (1) 55 percent, if the expenditure is made in fiscal year 2009;
- (2) 60 percent, if the expenditure is made in fiscal year 2010;
- (3) 65 percent, if the expenditure is made in fiscal year 2011; or
- (4) 70 percent, if the expenditure is made in fiscal year 2012.

SEC. 204. EDUCATIONAL STABILITY.

(a) **IN GENERAL.**—Section 475 of the Social Security Act (42 U.S.C. 675), as amended by section 101(c)(4) of this Act, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking clause (iv) and redesignating clauses (v) through (viii) as clauses (iv) through (vii), respectively; and

(B) by adding at the end the following:

“(G) A plan for ensuring the educational stability of the child while in foster care, including—

“(i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

“(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

“(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.”; and

(2) in the 1st sentence of paragraph (4)(A)—

(A) by striking “and reasonable” and inserting “reasonable”; and

(B) by inserting “, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement” before the period.

(b) **EDUCATIONAL ATTENDANCE REQUIREMENT.**—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 101(a) and 103 of this Act, is amended—

(1) by striking “and” at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting “; and”; and

(3) by adding at the end the following:

“(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary

school student or has completed secondary school, and for purposes of this paragraph, the term ‘elementary or secondary school student’ means, with respect to a child, that the child is—

“(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

“(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

“(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

“(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child.”.

SEC. 205. HEALTH OVERSIGHT AND COORDINATION PLAN.

Section 422(b)(15) of the Social Security Act (42 U.S.C. 622(b)(15)) is amended to read as follows:

“(15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of—

“(i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;

“(ii) how health needs identified through screenings will be monitored and treated;

“(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

“(iv) steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care;

“(v) the oversight of prescription medicines; and

“(vi) how the State actively consults with and involves physicians or 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 the children; and

“(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with

IMPORTANT LEGISLATIVE CLARIFICATION REGARDING FOSTERING CONNECTIONS ACT

On September 20, 2011, H.R. 2883, the Child and Family Services Improvement and Innovation Act, reauthorizing title IV-B of the Social Security Act, was signed into law. Among the many important provisions of the Act, it provides clarification to a critical element of the education stability provisions of the Fostering Connections Act.

Specifically, it clarifies that the requirement for the child welfare agency to consider proximity and appropriateness of the school when making living placement decisions, as well as the responsibility to maintain children in the same school unless not in the child's best interest, applies to the initial placement in foster care and any subsequent placement changes. Previous guidance had encouraged agencies to follow the education stability requirements during all subsequent placement changes, but now it is clear that the requirements apply throughout the time the child is in care.

**112TH CONGRESS, 1ST SESSION (2011)
H. R. 2883**

AN ACT To amend part B of title IV of the Social Security Act to extend the child and family services program through fiscal year 2016, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child and Family Services Improvement and Innovation Act”.

SEC. 106. PROVISIONS RELATING TO FOSTER CARE OR ADOPTION.

(a) EDUCATIONAL STABILITY FOR EACH FOSTER PLACEMENT.—Section 475(1)(G) of the Social Security

Act (42 U.S.C. 675(1)(G)) is amended—

- (1) in clause (i), by striking “the placement” and inserting “each placement”; and**
- (2) in clause (ii)(I), by inserting “each” before “placement”.**

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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	3. Originating Office: Children's Bureau	
	4. Key Words: Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008	

PROGRAM INSTRUCTION

To: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act, Indian Tribes, Tribal Organizations and Tribal Consortia (Tribes)

Subject: Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) Comprehensive Guidance, Titles IV-B and IV-E Plan Requirements, Title IV-E Plan Amendment – Definition of “Child”, Extension of Title IV-E Assistance, Patient Protection and Affordable Care Act (Public Law (P.L.) 111-148)

Legal and Related References: Titles IV-B and IV-E of the Social Security Act (the Act); P.L. 110-351; P.L. 111-148

Purpose: The purpose of this Program Instruction (PI) is to provide title IV-E agencies comprehensive information on the provisions of titles IV-B and IV-E as a result of the amendments made by the Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351. In addition to providing new guidance on the option for a title IV-E agency to extend assistance for the foster care maintenance, adoption assistance, and/or kinship guardianship programs to an eligible youth age 18 and older up to age 21, this instruction provides additional guidance on the other provisions of P.L. 110-351 and the flexibilities afforded to a title IV-E agency in complying with the law. We are also providing instruction on changes to the titles IV-B/IV-E plan requirements as a result of the Patient Protection and Affordable Care Act (P.L. 111-148).

INFORMATION:

- Section A: Title IV-E Definition of Child and Extending Assistance to Youth Age 18 and Older
- Section B: Provisions Specific to the Extension of Title IV-E Foster Care Age 18 and Older
- Section C: Transition Plan for Emancipating Youth
- Section D: Guardianship Assistance Program
- Section E: Enrolling Children in School, Educational Stability and Payments for School Transportation
- Section F: Health Care Oversight and Coordination Plan
- Section G: Sibling Placement
- Section H: Notifying Relatives
- Section I: Waiving Non-Safety Licensing Standards for Relatives

Section J: Adoption Assistance, Reinvestment, and Adoption Tax Credit

Section K: Indian Tribes and Title IV-E

Section L: Short-Term Training

Section M: Funding and Administrative Costs

Section N: Instructions for Amending the Title IV-E Plan

Section E: Enrolling Children in School, Educational Stability and Payments for School Transportation

School Enrollment

A title IV-E agency must assure in the title IV-E plan that each child receiving a title IV-E payment who has attained the age for compulsory school attendance is a full-time elementary or secondary student in a school, in an authorized independent study program, or is being home schooled consistent with the law of the State or other jurisdiction in which the school, program or home is located. Alternatively, the title IV-E agency must assure that such a child has completed secondary school or is incapable of attending school full time due to a medical condition as established in section 471(a)(30) of the Act.

To be considered a full-time student at a school, the child has to be enrolled or in the process of enrolling in the school. We encourage the title IV-E agency to work with their local educational agency to identify and address any barriers to expeditious enrollment in schools for children and consider further efforts that may be necessary to enroll children who must be moved across jurisdictions. For example, a title IV-E agency may address school enrollment by creating an “education passport” or an education file for the child which includes all essential documents needed to enroll the child in a school. It may also be helpful for a title IV-E agency to identify those who have expertise on educational issues who can serve as points of contact and may aid in the continuity of services when addressing educational stability for children in foster care. The courts can also play an important role in educational stability.

If a child in foster care is incapable of attending school full time due to a medical condition, the title IV-E agency must regularly (as determined by the title IV-E agency) document and update the incapability in the child’s case plan. The agency should update the status of the child’s medical condition whenever the child’s case plan is updated. The title IV-E agency is not required to develop a case plan for an adopted child or a child under a guardianship solely for the purpose of documenting the child’s medical condition and therefore, the agency may determine whether and how to document the child’s medical condition.

This is a title IV-E plan requirement, and therefore, does not place conditions on a child’s title IV-E eligibility. A title IV-E agency has the flexibility to determine how to assure that it is meeting these requirements, the frequency of any procedures for doing so, and how the requirements are documented (see CWPM section 8.4 Q/A #3). As part of this assurance, we encourage an agency to work to ensure that children are not only enrolled, but are in fact attending school. This could be accomplished by documenting children’s attendance or establishing methods to identify patterns of chronic absence from school. We also encourage the

title IV-E agency to monitor the progress the child is making in school consistent with case plan requirements in section 475(1)(C) of the Act.

Educational Stability

A title IV-E agency is required to include a plan for ensuring the educational stability of a child in foster care in the child's case plan as established in section 475(1)(G) of the Act. The plan must include:

- 1) an assurance that the child's placement in foster care takes into account the appropriateness of the current educational setting and the proximity to the school the child was enrolled in at the time of placement; and,
- 2) an assurance that the title IV-E agency has coordinated with the local education agency or agencies to ensure the child can remain in that school, or if remaining in that school is not in the best interests of the child, an assurance to enroll the child immediately in a new school with all of his or her educational records.

These assurances relate to the circumstances at the time of the child's initial placement into foster care, however, we encourage the title IV-E agency to update educational stability plans whenever a child changes schools during his/her stay in foster care. As part of the update process, the agency should determine if remaining in the same school is in the child's best interests. If it is in the child's best interests, the agency should coordinate with the local education agency to ensure the child can remain in the same school. If remaining in the same school is not in the child's best interests, the agency should coordinate with the local education agency to ensure that the child is immediately enrolled in a new school. While we are not setting specific time limits for enrollment, we expect the title IV-E agency to assure that children are enrolled or re-enrolled without delay both when the child is initially placed into foster care and, when applicable, each time the child is moved to a different foster care placement.

Section 475(1)(G) of the Act is a case plan requirement that falls under the guidance provided in 45 CFR 1356.21(g), and as such, the educational stability plan must be a written part of the child's case record which is jointly developed with the child's parents or guardians no later than 60 days after a child's removal from the home, and every six months thereafter. We encourage the title IV-E agency to specify the parties other than the caseworker and the child's parents who should participate in discussions or decisions related to the educational stability plan. For example, the agency could delineate the circumstances in which the youth, school personnel or education advocates, foster parents, the child's attorney, guardian ad litem, and other persons involved in case planning for the child are a part of the educational stability planning process. If the agency determines that it is not in the child's best interests to remain in the same school, the rationale for this decision must be documented in the case plan. We encourage the title IV-E agency to develop a standard and deliberate process for determining best interests for this provision, guiding who is responsible for decision-making, and properly documenting the steps taken to make the determination.

The title IV-E agency is vested with the responsibility for making individual placement decisions on a case-by-case basis on behalf of a child in foster care. As such, we realize that the agency will be balancing the child's needs for proximity to the family, the available foster care resources, along with the appropriateness of the child's current educational setting, among other things. The title IV-E agency also has the flexibility to determine which factors will be examined in determining whether remaining in the school of origin is in the child's best interests. Some examples of factors the agency may consider are: the child's preference to change schools or remain in the current school; the safety of the child; and the appropriateness of educational programs in the current school or another school and how each school serves or can serve the child's needs (including special education and other interests). It should be noted that the cost of school transportation should not be a factor in determining the best interest of the child for school selection. (See *Payments for School Transportation* below.)

Payments for School Transportation

The definition of foster care maintenance payments now includes the cost of reasonable travel for the child to remain in the same school he or she was attending prior to placement in foster care (section 475(4) of the Act). The payment may include these costs regardless of whether the child is in his or her initial foster care placement or subsequently moves to another foster care placement. The title IV-E agency has the discretion to determine what is considered reasonable travel in examining factors such as cost, distance, and length of travel. As with any cost enumerated in the definition of foster care maintenance payments in section 475(4) of the Act, the title IV-E agency may decide which of the enumerated costs to include in a child's foster care maintenance payment. The title IV-E agency may include the cost of reasonable travel for the child to remain in the same school in the child's foster care maintenance payment paid to the child's provider or may make a separate payment directly to the transportation provider. In addition, transportation costs associated with the child's attendance at his or her school of origin remain allowable administrative costs under title IV-E because such transportation is related to case management and is therefore necessary for the proper and efficient administration of the title IV-E plan (see CWPM section 8.1B and 45 CFR 1356.60(c)(2)).

Inquiries: Children's Bureau Regional Program Managers

/s/

Bryan Samuels
Commissioner

Attachments

A – Title IV-E Preprint Amendments

B – Single Resource on Fostering Connections, updated 6/7/10

C – CB Regional Office Program Managers