

OVERVIEW OF THE FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008 (P.L. 110-351)

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1.1 What is the Fostering Connections to Success and Increasing Adoptions Act?

The Fostering Connections to Success and Increasing Adoptions Act is a new federal law that includes important improvements for children who enter foster care or are at risk of entering foster care. The act offers vulnerable children meaningful family connections and important protections and support. Considered by many to be the most significant and far-reaching child welfare legislation in more than a decade, the act became law on October 7, 2008, when it was signed by President Bush after unanimously passing both the House and Senate with broad bipartisan support.

1.2 How does the Fostering Connections to Success and Increasing Adoptions Act help children and families?

The act helps to improve outcomes for children in foster care or at risk of entering care by:

- Allowing states to claim federal funds to provide assistance to help more children exit foster care to live permanently with relatives who become their legal guardians;
- Expanding federal assistance to enable more children with special needs to be adopted;

- Providing federal grants for Kinship Navigator and other programs to help children stay connected with their families;
- Requiring states to make reasonable efforts to place siblings together and help children in foster care or permanent placements stay connected with their siblings;
- Requiring states to notify relatives when children are removed from their parents' custody;
- Allowing states to claim federal funds to continue foster care payments for older youth in care (and, in certain cases, guardianship or adoption assistance payments) up to age 21 when those youth are engaged in work, school, or a program designed to eliminate barriers to or promote employment or cannot engage in these activities due to a documented medical condition;
- Allowing Indian tribes, for the first time, to directly claim Title IV-E funds for eligible youth in federal foster care and adoption assistance programs without state-tribal agreements, thereby offering new supports and protections for American Indian children;
- Requiring states to ensure that children in foster care or in guardianship or adoptive families are attending school and help them remain in their original school or ensure they get help to make a prompt transfer to a new school that is more appropriate for them;
- Requiring state child welfare agencies to work with state Medicaid agencies and others to develop a plan to improve the coordination of health care for children in foster care; and
- Expanding the uses of federal Title IV-E training funds to pay for training of current or prospective relative guardians, staff of private child welfare agencies, court personnel including judges, attorneys for parents and children, court appointed special advocates, and guardians ad litem.

1.3 How will the act help children connect to grandparents and other relatives?

The act offers new support for relatives already caring for children both in and out of foster care and also helps connect children with relatives in new ways. It requires states to give notice to relatives within 30 days of a child's removal from the custody of his parents, which may allow the relatives to care for the child and prevent the child from entering foster care, to become the child's foster parent, and/or to serve as a support person for the child while the child is in foster care. New Family Connection Grants will connect children in or at risk of entering foster care to family members, including expanding Kinship Navigator programs that help link relative caregivers, both those caring for children in and out of foster care, to a broad range of services and supports for their children and themselves. The act also allows states to use Title IV-E funds

for kinship guardianship assistance to help eligible children leave foster care to live permanently with relatives. Finally, the act also allows states to make case by case adjustments to non-safety licensing standards to enable more children to be cared for by relatives in Title IV-E reimbursable foster care.

1.4 When do the provisions in the new act take effect?

Many of the provisions in the new act took effect on October 7, 2008, the date of enactment, and must be implemented right away. These include the requirements for notice to relatives, keeping siblings together, transition plans, a health oversight and coordination plan, and notification to adoptive parents or prospective adoptive parents about the adoption tax credit. States may have additional time to comply with these requirements if the Secretary of Health and Human Services determines that the state must enact legislation to meet the requirements. In such cases, states must comply in the quarter that begins after the state's first legislative session closes, or in the case of a two-year legislative session, the quarter that begins after the end of the first year of the legislative session.

As of October 1, 2010, states with federal adoption assistance programs will be able to claim federal funds for more children with special needs. In the first year, states must begin phasing in an expansion of the program to reach more eligible children with special needs, beginning with older children and children who already have been in care for five years and their siblings, who often are the most difficult to place for adoption. Other children will be phased in by age over the next nine years so that all eligible children with special needs will be covered by October 2018.

States also have the option, under the act, to claim federal funds for assistance for two new groups of children. Effective October 7, 2008, states were eligible to opt to provide kinship guardianship assistance payments for eligible children who have been in foster care with relatives who want to care for them permanently outside of foster care. Effective October 2010, they also may opt to claim federal funds for youth in foster care beyond their 18th birthday to the age of 19, 20, or 21 in order to increase their chances for success when they leave care.

Indian tribes and Tribal Consortia, effective October 1, 2009, also may opt to directly access IV-E Foster Care and Adoption Assistance funds, without a state-tribal agency agreement, although they could still decide to run their foster care and adoption assistance programs through a state-tribal agreement.

There are also several other provisions in the new law that states may choose to use to help them connect children to families and improve their quality of care for children:

- apply, perhaps with a private non-profit agency or other organization, for one of the competitive Family Connection Grants, which will become available in 2009;
- use the Federal Parent Locator Service to help identify relatives who should be notified when children enter care, effective October 7, 2008;
- provide independent living services and educational and training vouchers, effective October 7, 2008, to youth who exit foster care after their 16th birthday to live with relative guardians or adoptive families; and
- claim federal funding, effective October 7, 2008, under Title IV-E, for short-term training of several groups who could not previously be trained with Title IV-E funds: relative guardians, staff of private agencies and courts, and attorneys for parents and children and guardians ad litem and court appointed special advocates working with children in the child welfare system. Training for these groups will be reimbursed in FY 2009 at a 55% match rate that will increase each year, reaching 75% in 2013

1.5 What does a state have to do, and how quickly must the state act, if new state legislation is necessary?

According to an October 23, 2008, Program Instruction from the Administration for Children and Families, ACYF-CB-PI-08-05, states that require legislation to comply with the new Title IV-E or Title IV-B plan requirements must submit a certification to the applicable Children's Bureau regional program manager detailing the plan requirements that will necessitate state legislation. The certification must also give the delayed effective date for that state (the first day of the first calendar quarter following the close of the first regular session of the State Legislature that ends after October 7, 2009). All certifications were required to be signed by the designated state agency official and submitted no later than November 24, 2008. The Children's Bureau will then notify the state whether or not the Secretary has determined that state legislation is necessary.

1.6 Does a state that does not require state legislation to implement the act need to submit anything to the Children’s Bureau?

Yes. States that believe that they do not require any new legislation before they can implement the new act must also submit a certification to their Children’s Bureau regional program manager indicating that state legislation is not necessary and that a delayed effective date is not applicable. This certification was due November 24, 2008.

1.7 Will children, grandparents and other relatives in all states benefit?

Yes, children and relative caregivers in all states will benefit from at least some of the provisions. All states, for example, are required to:

- give notice to adult relatives of children who are removed from their parents’ custody;
- make reasonable efforts to keep siblings together or connect them to one another; and
- ensure that children are attending school and have the opportunity to remain in the school they were in when removed from their homes.

For others, the answer will depend on the choices of individual states. For example, all states will have the option to offer federally supported kinship guardianship assistance payments to relatives; however, they are not required to do so. Likewise, all states (as well as local child welfare agencies, tribal child welfare agencies and non-profit agencies) will have the opportunity to apply for Family Connection Grants, but there will be a limited number of grants available. Because local and tribal child welfare agencies and nonprofit organizations can apply for the grants, it is possible that a locality within a state could operate a Family Connection Grant-funded program that is not available on a state-wide basis.

In making decisions about provisions like these where states have some choice, it is important for state officials to consider key questions: How many children in my state will it benefit and how; is my state already doing this, at least in part; what are the likely costs; what short and long term savings can we expect; and what will be the cost if the states chooses not to do it?