MAINTAINING SIBLING CONNECTIONS

5.1 What does the new law require about the placement of siblings?

State agencies must make reasonable efforts to place siblings together, whether in foster, kinship guardianship, or adoptive placements, unless placing them together would be contrary to their safety or well-being. If the siblings are not placed together, the agency must make reasonable efforts to ensure that the siblings maintain their connections to each other through frequent visitation or other ongoing interaction. An exception to maintaining connections is permissible only if such contact would be contrary to the safety or well-being of one or more of the children. Sibling connections are significant to a child in foster care's emotional and social development since siblings often provide the connection and stability that is no longer available from the child's parents. (§471(a)(31); P.L. 110-351 §206)

5.2 How does the new law define "sibling"?

The new law does not define "sibling." State definitions of siblings vary as do state policies regarding placing siblings together. While definitions of siblings have traditionally been confined to those children with biological or legal connections, there is increasing recognition that the diversity of family structures that exists today may lend itself to a broader definition of sibling. It is also important to consider how familial relationships and clan membership shape the definition of sibling for American Indian children.

5.3 What does "reasonable efforts" mean in the context of placing siblings together?

The new law does not define the term "reasonable efforts." Individual circumstances will vary and what is "reasonable" in one situation may not be in another. As a starting point, states must try to place siblings who come into care together in the same home. They must also make efforts to identify whether a child entering foster care already has siblings in care. States also must try to locate relative and non-relative foster families who are able to care for a sibling group, recognizing that it is important to keep in mind the unique challenges associated with caring for multiple children, particularly when those children have been traumatized and may need special attention. As part of their due diligence in identifying and notifying relatives that children have been removed from their parents' custody, states should inquire about whether relatives can care for a group of siblings. States should also inquire about what services and supports would make it possible for these relatives (or other caregivers) to care for the siblings together. Perhaps more frequent respite care would make joint placement more sustainable or help with transportation to various activities, therapies and medical appointments. Since greater assistance is often available to licensed caregivers, state should also consider how they can help relative caregivers become licensed foster parents. The new law allows states to waive non-safety related licensing criteria on a case-by-case basis for individual children in relative foster family homes. (See questions 8.1 and 8.4). This authority should be used to prevent licensing standards from hindering sibling placement.

5.4 What does "frequent visitation or other ongoing interaction" mean?

The new law does not define "frequent visitation or other ongoing interaction." It may be defined differently depending on the individual needs of the siblings. The age and development of a child, for example, might dictate how frequent the contact should be, as well as the nature of that contact. The nature of the relationship before placement should also be a factor. In-person visits also could be supplemented with regular phone contact, e-mail contact or web camera communication. Child welfare workers need to be creative in thinking about ways to maintain and nurture the relationships between siblings who must be separated.

5.5 How does this new requirement apply to siblings already in care?

The requirement to make reasonable efforts to place children together (or to maintain frequent visitation or other ongoing interaction when placement together is contrary to a child's safety or well-being) is a state plan requirement. It therefore applies to all children in foster care, kinship placements or adoptive homes on or after the effective date, October 7, 2008. However, what constitutes "reasonable efforts" will be governed by the individual circumstances of the child and

the child's family and will vary from family to family. For example, when a child already in care is being moved to a new foster home, it would be reasonable to look to see if he or she has a sibling in care and whether placement with the sibling would be safe and consistent with the child's well-being. If two siblings are in different foster homes and have moved from home to home, it would be reasonable for the child welfare agency to determine whether one of the foster families can provide a home for both children or to consider whether a third family could do so. On the other hand, if two siblings are in separate pre-adoptive homes, reasonable efforts may require no more than ensuring that the prospective adoptive parents know of the sibling and offering to help make contact between the two families if both agree that is best for their child. (§471(a)(31); P.L. 110-351 §206)

5.6 What about visitation or other ongoing contact between children in care and their siblings who are not in care?

The sibling provisions in the new law apply only to children removed from their homes. Though not required, efforts to maintain connections between children removed from their home and any siblings who are not, if appropriate, should be considered. (§471(a)(31); P.L. 110-351 §206)

5.7 What are the criteria for determining when it is contrary to the safety or well-being of a child to be placed with a sibling?

The new law does not specify the criteria for determining when it is contrary to a child's safety or well-being to be placed with a sibling. As with other areas in child welfare, these determinations will need to be made on a case-by-case basis considering the children involved and the views of the birthparents and caregivers familiar with the children. The age, development, and special needs of the children may be relevant, as well as their prior history with each other. The appropriateness of placing siblings together will also depend in part upon the ability of the children's caregiver to address their needs. The determination will likely be made initially by the child welfare agency, since this agency has responsibility for the care and placement of the children. However, the court as part of the initial removal hearing may inquire about efforts to place siblings together. Pre-existing law also provides for a case review system that requires an external case review of the status of the child every six months and a permanency hearing by a court every 12 months. Consideration of placement and connection with siblings should be considered as part of these reviews. All factors taken into account in making placement decisions, as well as decisions about maintaining contact between siblings who are not placed together, should be documented in the children's case records to demonstrate that reasonable efforts were made. Such information may also be useful later if questions of contact and visitation need to be reconsidered.

5.8 How will American Indian children benefit from this sibling requirement?

The requirement to make reasonable efforts to place siblings together (or to maintain frequent visitation or other ongoing interaction when placement together is contrary to a child's safety or well-being) is a Title IV-E state plan requirement. Once tribes or consortia of tribes begin to run their own foster care and adoption assistance programs and receive federal Title IV-E funds, they will be required to comply with most state plan provisions including the requirements about sibling placement and contact. Tribes who have agreements with states to administer or co-administer Title IV-E programs are also required to comply with state plan provisions and thus will be required to meet the new requirements regarding sibling placement and contact. Of course, American Indian children in the custody of a state child welfare agency will also benefit from the state plan requirement. The requirements will not apply to children whose care and placement are the responsibility of a tribe that does not administer a Title IV-E program directly or through a state-tribal agreement, although tribes may require such efforts as part of their laws or customs. (§479B; P.L. 110-351 §301(a))

5.9 Which states already require that reasonable efforts be made to keep siblings together?

Although more than 70 percent of children in foster care have one or more siblings, the majority of children in foster care are not living with their siblings. Fourteen states have taken steps to keep siblings in foster care together in the same home, when it is in the children's best interest and when the foster parents can keep them safe. Some states go further and require that efforts be made to keep siblings in contact with one another when joint living arrangements may not be appropriate.

In 2006, Maine passed legislation that required foster parents and adoptive parents to facilitate mandatory visits between separated siblings. Iowa also passed legislation in 2007, which the new law is impart based upon, requiring the child welfare agency to make "a reasonable effort" to place siblings together, and to provide communication and visitation between the siblings if it is not in the children's best interests to place them together. The Iowa law also requires the state to inform foster parents of the importance of sibling bonds and their significance in helping youth in the child welfare system.