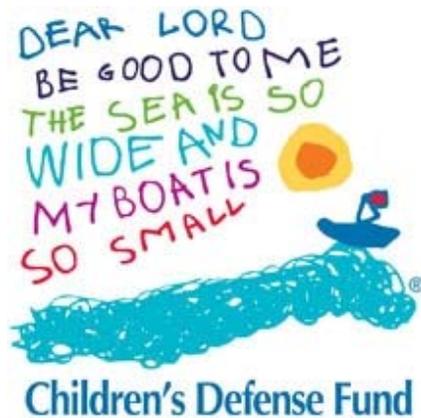


**Written Statement
for the Record**



**Hearing on
The Implementation of the
*Fostering Connections to Success and
Increasing Adoptions Act*
September 15, 2009**

**Before the
Subcommittee on Income Security and Family Support
of the
Committee on Ways and Means
U.S. House of Representatives**

**Submitted by:
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The Children's Defense Fund (CDF) appreciates the opportunity to submit this written statement on implementation of the *Fostering Connections to Success and Increasing Adoptions Act* of 2009. We ask that it be added to the record of the September 15, 2009 Hearing on the Implementation of the *Fostering Connections to Success and Increasing Adoptions Act* held by the Ways and Means Subcommittee on Income Security and Family Support.

The Children's Defense Fund's *Leave No Child Behind*[®] mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. The Children's Defense Fund provides a strong, effective and independent voice for all children of America who cannot vote, lobby or speak for themselves. CDF pays particular attention to the needs of poor and minority children and those with disabilities. CDF is a private non-profit organization and has never taken government funds.

CDF's advocacy for improved outcomes for children who are abused or neglected or at risk of maltreatment predates the passage of the *Adoption Assistance and Child Welfare Act of 1980*. Important steps have been taken since that time to improve outcomes for these children and their families, but enormous challenges remain. Therefore, it is particularly exciting to be able to thank you for the important improvements for children in foster care that you passed last fall in the *Fostering Connections to Success and Increasing Adoptions Act*. They represent the most significant reforms for children who are abused and neglected and in foster care in more than a decade. These improvements, when fully implemented, will promote the safety, permanence and well-being of hundreds of thousands of children in foster care across the country.

Improvements Made Through the Fostering Connections to Success and Increasing Adoptions Act

When the Children's Defense Fund testified before this Subcommittee in February 2008 on improving the child welfare system, at the time the *Invest in KIDS Act* and other legislation was being considered, we emphasized that improvements for children and families were needed in five key areas: prevention, specialized treatment and attention to basic needs, enhanced permanency options and post-permanency services, improvements in the quality of the child welfare workforce, and increased accountability for improved child outcomes and system improvements. While the job is not done, the *Fostering Connections to Success and Increasing Adoptions Act* holds promise for children to truly benefit from improvements in most of these areas. States, with support and sometimes prodding from private agencies, advocates, relative caregivers and youths who have been in foster care, have begun to issue guidance and proposed legislation to implement new programs, practices and policies that will help to improve outcomes for children.

Groups of advocates and others have come together to develop guides and pool resources in several areas to assist with implementation of the Act's new provisions. See, for example, *New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About*

the Fostering Connections to Success and Increasing Adoptions Act of 2008, available at www.childrensdefense.org/FCSIAAGuide and *Frequently Asked Questions on the Provisions Designed to Impact Youth and Young Adults* available at www.nationalfostercare.org/pdfs/NFCC-FAQ-olderyouth-2009.pdf.

As Ms. Jacqueline Johnson Pata, Executive Director of the National Congress of American Indians, testified at the Subcommittee's hearing on September 15, there has also been close collaboration among organizations representing Indian tribes, tribal consortia and other national organizations that has helped to promote the opportunity Indian tribes and tribal organizations and consortia have, effective October 1, 2009, to obtain direct access to the federal support provided by the Title IV-E Foster Care, Guardianship Assistance and Adoption Assistance Programs. This is a long overdue reform. It is encouraging that about 73 tribal entities from seven out of the ten federal regions have expressed their intent to directly operate Title IV-E programs and 15 actually have applied for development grants provided under the act to help support their Title IV-E readiness activities for two years. Many American Indian and Alaska Native children stand to benefit from the protections, services and assistance provided under the new Act and many of the initiatives we describe below.

There also have been collaborative implementation efforts in the states, encouraged and supported in some cases by national and local foundations. Some have focused broadly on the Act and others on specific provisions. For example, the Commissioner of the New York State Office of Children and Family Services convened "A Statewide Roundtable on Subsidized Guardianship in New York State" earlier in the year, and similar forums have been held in other states. The new Act also has prompted new collaborative efforts among child welfare and other child-serving agencies that touch the lives of the children in the child welfare system, most notably the education and health care systems. In other states efforts are being made to get these conversations started. The Act has stimulated excitement about the opportunity for reform and helped to make the case, in these very tough economic times, that these new reforms to benefit children and youths cannot be ignored or postponed. These children and youths have waited long enough. As Subcommittee Chairman McDermott said in his opening statement at the hearing on September 15, "Children in foster care cannot wait for a time when reform is convenient."

Below we highlight some of the changes in practice, program and policy that are being pursued as a result of the *Fostering Connections to Success and Increasing Adoptions Act* and that build on recommendations CDF has shared with you in the past, as well as references to some implementation activities that are underway.

Enhancing Prevention, Specialized Treatment and Supportive Services for Children

Although many of the provisions in the *Fostering Connections to Success and Increasing Adoptions Act* are focused on children and youth already in foster care, there are some that will help to keep children out of foster care and safely with their birth family or members of their extended families.

Family Connection Grants

The Family Connection Grants, authorized under the *Fostering Connections to Success and Increasing Adoptions Act*, should be awarded by the Children's Bureau in the Department of Health and Human Services (HHS) by the end of September. They will give states, tribes and non-profit organizations the opportunity to engage in activities to prevent children from entering foster care and offer children and families some of the basic supports and specialized treatment they need. Even the prospect of applying for Family Connection grants has encouraged collaboration on behalf of this group of vulnerable children. We are familiar with several examples where university staff collaborated with agencies in the development of the grant applications and others where relative caregiver organizations joined with public agencies.

Grants for Kinship Navigator Programs will help link relatives with support groups, respite care programs and other services. We have learned about a number of states and caregiver groups that have applied for such grants. Relative caregivers report that one of their greatest challenges in raising children and keeping them out of foster care is getting accurate information about the benefits and services that are available to the children. In some cases the caregivers have been away from parenting for a while and in others they have never had contact with some of the service systems they need to approach for the children, such as mental health and special education. The Kinship Navigator Programs will help them get their children what they need.

Family Group Decision-Making meetings, which can also be supported under the Family Connection Grants, will bring family members and others familiar with the child and family together as decisions are being made and help them work together to prevent the need for children to enter foster care. These meetings also have been used effectively to help ensure that children return home more promptly from care and, when that is not possible, to help identify other permanency options for the child.

Grants for comprehensive family-based substance abuse treatment will help families get the treatment they need without requiring young children to be separated from their families and can also be used effectively to facilitate reunification. There are examples already where these activities are being used to improve outcomes for children, and it is so important that we will have an opportunity to learn more about what works in these areas from the Family Connection Grants.

New Attention to Health and Education

The steps taken in the *Fostering Connections to Success and Increasing Adoptions Act* to improve the basic health and education of children in foster care will help ensure that special needs of children in these areas will be identified. Improvements in children's health and education also will improve children's opportunities for success when they leave care.

Education Stability and Attendance. The Act requires state child welfare agencies to improve educational stability for children in foster care and ensure that they are attending school. It requires the agencies to coordinate with local education agencies to ensure children remain in the school in which they are enrolled at the time of placement into foster care, unless that would not

be in the child's best interests. If it is not, the state must ensure the child's immediate enrollment in a new school with all of the educational records of the child provided to that new school in a timely fashion. The Act provides some help with transportation costs to assist children in remaining in their original schools. States also must provide assurances in their Title IV-E state plans that every school-age child in foster care or who is receiving an adoption assistance or subsidized guardianship payment, with help from Title IV-E, is enrolled as a full-time elementary or secondary school student or has completed secondary school. Greta Anderson, a former foster youth from Wisconsin, testified at the September 15 hearing that she attended nine different schools during her high school career, six of them in different treatment facilities, reminding us all of the importance of these provisions for youths in foster care.

In Pennsylvania, education and child welfare advocacy organizations are working together on implementation of the new provisions, and in Connecticut, advocates and agency staff from both systems have come together to plan for implementation of these important improvements. Other states, including Iowa and Utah, have enacted implementing legislation. CDF and other advocates are working to explore ways that complementary federal obligations might be imposed on state and local education agencies so there would be increased receptivity to these improvements in the states. Just as children who are homeless have been afforded basic educational rights under the *McKinney-Vento Homeless Assistance Act*, attention also must be given in education law to the educational rights of children in foster care.

Health Oversight and Coordination. The State Health Oversight and Coordination Plan required under the Act is intended to get child welfare and Medicaid agencies working together with pediatricians and other experts to look more carefully at the health and mental health challenges facing children in foster care. It must address how initial and follow-up health screenings will be provided, health needs identified will be monitored and treated, and medical information will be updated and appropriately shared with providers. The plan also must detail the steps that are or will be taken to ensure continuity of health care services, including the possibility of establishing a medical home for every child in care, and what will be done to ensure the oversight of prescription medications, including psychotropic drugs. This requirement has pushed action forward in states that had already begun such coordination work and has been used in other states to bring child welfare and health to the table together. For example, Florida child welfare, juvenile justice and health agencies have entered an interagency agreement to develop a coordination plan. The challenge in all the states will be to make this more than a plan that sits on the shelf but, instead, a game plan for changing practices, procedures and policies in states so that the health and mental health care needs of children in foster care will be addressed. Too often now children enter foster care after experiencing abuse and other trauma and, rather than getting help, face new problems that make them worse off instead of better off. Unfortunately, HHS has, to date, provided states little guidance as to either the process for developing or the contents of these plans. In late August, the President of the American Academy of Pediatrics made specific recommendations to the Acting Assistant Secretary for Children and Families for guidance in evaluating states' Health Oversight and Coordination Plans. It would be helpful for the Subcommittee to recommend to the Children's Bureau that it issue a letter jointly with the Center for Medicaid and State Operations in the Centers for

Medicare & Medicaid Services about the importance of meaningful collaboration among child welfare and Medicaid agencies in strengthening and implementing these plans.

Promoting New Permanency Options and Post-Permanency Services for Children

The *Fostering Connections to Success and Increasing Adoptions Act* pushed forward a renewed focus on the importance of permanence for children in foster care and attention to what can be done to place children safely in permanent homes with relatives and with adoptive parents. Many of these are reforms that have been encouraged for years and are now finally getting important attention in the states.

New Attention to Permanence for Children in Care with Relatives

The promoters of the Act took note of research that has found children often do better in placements with relatives when in care away from their parents and are often as safe, if not safer, than children placed in non-relative foster homes. Children and youths placed with relatives experience fewer placements than those in non-relative homes, giving them greater stability both at home and in school. They also are more likely to be placed with their siblings and more likely to say that they feel they are part of the family they are living with. Recent research also has found that children placed with relatives are less likely to exhibit behavior problems. New requirements and options for states in the Act can help support children being raised by grandparents and other relatives.

Identification of and Notice to Relatives. The *Fostering Connections to Success and Increasing Adoptions Act* requires that states identify and give notice to all adult relatives within 30 days of a child being removed from his family and placed in foster care. CDF staff often hear that relatives didn't know a grandchild or niece or nephew had been removed from his or her home and placed in foster care. Providing notice to relatives immediately will allow them early on to decide whether and to what extent they can be involved in caring for the child. They will be more aware of the options they have. If they cannot provide a home for the child, their involvement still can help to maintain an important family connection and ease the child's sense of loss. These connections also can be helpful if it later turns out that reunification is not a possible permanency option for the child. Although a number of states already had notice requirements, many states have taken a second look to check the frequency and nature of the notice and who receives it. New York and Pennsylvania are two of the states that early on reissued guidance on their notice requirements with modifications. The National Conference of State Legislatures reports that at least eight states have enacted new relative notice requirements through legislation since the Act was passed (AR, CO, GA, IA, MN, MO, ND, OK). Other states are waiting until the Children's Bureau provides further details on the nature of the notice and documentation required. We have heard questions from states such as: What steps must be taken to identify relatives to fulfill due diligence? Must the notice be in writing? What specific information must the state give the relative?

Intensive Family Finding. Intensive Family Finding, another activity allowed under the Family Connection Grants mentioned above, can help identify relatives who may be a resource for children. It can be used early on as a strategy for exercising due diligence in identifying and

notifying relatives, or it can be used to help children already in care connect permanently with family members. Intensive Family Finding uses search technology to find family members and, when they are identified, works to establish and build on relationships to promote permanency for the child. Encouraged by results in states that have used Intensive Family Finding and documented its impact on improved outcomes for children, Texas and Colorado have applied for a Family Connection Grant to use this strategy.

Kinship Guardianship Assistance. The *Fostering Connections to Success and Increasing Adoptions Act* also provides federal support for the first time to states that opt to offer subsidized guardianship payments on behalf of children in federally-supported foster homes with relatives. These payments help enable children to leave foster care yet remain permanently with their relatives who become their legal guardians. In including the Kinship Guardianship Assistance Program in the *Fostering Connections to Success and Increasing Adoptions Act*, Congress recognized that 37 states and the District of Columbia already were offering such assistance and wanted to help these programs reach more children and encourage additional states to offer similar assistance. There is a lot of interest in the program, especially among states already supporting such assistance to children with only state dollars. To date, at least six of these states (CT, ME, MO, OR, PA, TN) and the District of Columbia have notified HHS of their plans to use the new federal dollars for Kinship Guardianship Assistance, and Director Erwin McEwen of the Illinois Department of Children and Family Services testified on September 15 that Illinois will do so when its Subsidized Guardianship waiver ends in October. Eight of the 13 states not previously offering such assistance already have passed new kinship guardianship assistance legislation (AR, CO, MI, TX, WA) or are working toward such legislation (NY, VT, VA). Although the enormous fiscal pressures on states make it challenging for them to make any new investments, increasing numbers of states have realized that if they don't take advantage of the new funding opportunity, they will continue to pay for the care of many of these children in foster care anyway. Before a child can receive Kinship Guardianship Assistance, both reunification and adoption must be determined to be not appropriate permanency options for the child, suggesting he or she will remain in foster care. There also is evidence from research in Illinois and Tennessee, two of the states that have used federal child welfare demonstration waivers to implement statewide subsidized guardianship programs, that these programs are cost-effective and can actually save states money. The Act took another step as well to support kinship families by offering independent living services and education and training vouchers to youths who leave foster care at age 16 or older and move in permanently with relatives or are adopted. Greta Anderson, the young woman who testified before the Subcommittee, was placed with a relative guardian at 16 and is a living example of how this provision in the Act already has helped a youth who had been in a kinship guardianship placement get additional assistance for college. As she said, "The college experience is one every foster youth deserves."

Sibling Connections. The Act also gives special attention to the importance of sibling connections for children in foster care. Research has documented that the sibling bond is one of the most important and long-lasting bonds created in our lives, and it is especially important for children in foster care who often do not have connections to other family members. The Act requires agencies to make reasonable efforts to place siblings together in all placements unless it is contrary to the children's safety or well-being. This will help to provide a sense of stability for

the children who are removed from the rest of their family. If siblings cannot be placed together, the state must make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would also be contrary to a sibling's safety or well-being. Although prior to the enactment of the new law, a survey by the National Resource Center for Family-Centered Practice and Permanency Planning found that more than half the states had policies in place requiring agencies to make efforts to ensure siblings are placed together and even more states promoted sibling visitation, there was also evidence from some of the larger states that more than half of the children with siblings in care were not placed together. The Act's sibling provisions have required agencies to update some of their policies and take steps to document that they are making reasonable efforts to ensure their rules are being implemented and that staff, caregivers and youths themselves actually know about them.

Promoting the Adoption of Children with Special Needs

The *Fostering Connections to Success and Increasing Adoptions Act* takes specific steps to make adoption a permanency option for more children with special needs in foster care. Beginning this fall, on October 1, 2009, states will be eligible for federal reimbursement for more children with special needs who are adopted. The Children's Bureau just issued new guidance for the Adoption Assistance changes on August 26, 2009 (ACYF-CB-PI-09-10). Over a nine-year period, children waiting for adoptive families will be eligible for federal support without regard to whether their birth family was eligible for Aid to Families with Dependent Children. This is a change that had been sought for decades. It makes no sense to tie a child's eligibility for adoption assistance payments with a new family to the income of his or her birth family whose parental rights have been terminated. This fall states must extend the new adoption assistance payments to all eligible youths 16 and over with special needs who are waiting for adoption and to children with special needs who have been in care for 60 or more continuous months, as well as the siblings of both groups of children and youths if they are adopted by the same family. Again, this is another provision that will benefit individual children but has also already encouraged state agencies to take a careful look at the large number of children sitting in foster care waiting to be adopted. The North American Council on Adoptable Children has been doing commendable work with states to help them prepare for this new assistance and commit to redirecting state dollars currently used for adoption assistance payments to post-permanency and other services. The redirection of these services can help ensure that children get referred appropriately for adoption and, once placed with adoptive families, get the supports and services they need to remain there.

Expanding the Adoption Incentive Program

The Act reauthorized the Adoption Incentive Program and expanded the incentives available to states that increase the number of older children and other children with special needs being adopted. The additional incentive payments should help states reduce the number of children waiting for permanent families. On September 14, 2009, HHS announced incentive awards totaling \$35 million for 38 states and Puerto Rico, including eight of the states represented on the Subcommittee (AL, CA, FL, GA, IL, MD, MI and NV). These were the first awards made under the new rules in the Act. The awards are to be used for child welfare services and activities, including post-adoption services, authorized under Titles IV-B and IV-E of the Social Security Act.

Support for Youths Aging Out of Care

The *Fostering Connections to Success and Increasing Adoptions Act* also promises new federal support to states to help older youths who are not adopted or returned home remain in care to age 19, 20 or 21 to finish their education, find work, and explore new permanent family connections. While federal support for youths in care beyond their 18th birthday will not go into effect for another year, states, as you heard from both Illinois and Maryland at the hearing, are working hard to determine how youths can benefit from this increased support. States like these that already are using state dollars to provide support may be able to free up some state dollars to reach more children. For those states that now end support for youths at age 18, there is strong evidence to show that continued time in care to help with education and work opportunities can improve outcomes for youths. Research by the Chapin Hall Center for Children at the University of Chicago has documented increased benefits to young people who stay in care longer. They are more likely to graduate from high school, pursue higher education, graduate from college, have higher incomes and delay pregnancy. Recognizing these benefits, at least three states have already enacted legislation that would allow them to provide such support to youths (IL, TX and WA). Others have legislation pending (AL, CA, DE and MA). In order to assist older youths, states also are paying attention to the Act's new requirement for transition plans for youths before they leave care and exploring how to ensure that youths play a major role in planning for the housing, health coverage, education, workforce support, employment services and other help they will need.

Improving the Child Welfare Workforce

The *Fostering Connections to Success and Increasing Adoptions Act* also took a first step to improve the child welfare workforce by extending federal Title IV-E training funds to reach more agency and court staff working with children in the system. Federal support for training is also extended to attorneys representing parents and children, guardians ad litem and other court appointed special advocates. While much more needs to be done, states and advocates are beginning to pay more attention to how Title IV-E training funds are being used and can be expanded for the benefit of children. The fact that the new funds are phased in over five years has been a disincentive so far for states to use the new funding. At the same time, however, states are eager to get Congress's attention about other changes needed to improve the child welfare workforce.

Taking the Next Step and Finishing the Job

The *Fostering Connections to Success and Increasing Adoptions Act* has provided new attention to problems facing children and families and child welfare systems across the country, focused new energy on reforms to improve outcomes for children, and promoted important new collaborations that recognize children will only truly benefit if agencies serving children work together and with the broader community on their behalf. CDF looks forward to continuing to work with Members of the Subcommittee and others to ensure that children truly benefit from the new services and supports offered in the *Fostering Connections to Success and Increasing Adoptions Act*. At the same time, we are eager to build on the momentum that has been gained

and “finish the job” as Chairman McDermott said on the House floor last year. As we work to improve outcomes for children in foster care, we must ratchet up efforts to improve outcomes for all children by implementing improvements in federal child welfare financing that will help:

- Offer children and families the supports they need to prevent child abuse and neglect, prevent crises from intensifying, and prevent children from entering foster care unnecessarily;
- Improve the child protection response in states, as it is often the child protection agency that controls the front door to the child welfare system;
- Promote improvements to establish permanency, permanency incentives and post-permanency services for children in foster care, including Kinship Guardianship Assistance for all children in foster care with relatives, and special help to relatives who are preventing children from entering foster care;
- Establish permanency for the tens of thousands of children, often older children, who remain in expensive group care settings and seem not to be helped by most efforts underway in states to safely reduce foster care caseloads;
- Make continuing improvements in the child welfare workforce to help states address gaps in supports for the workforce and extend training for *all* staff assisting children in the child welfare system—not just those directly responsible for IV-E eligible children—to promote safety, permanence and well-being for children; and
- Promote increased accountability in states for improved outcomes for children by encouraging more frequent tracking and reporting on child-specific outcomes and on the movement of children in and out of care and agencies’ performance over time, assisting in the development of evidence-based practices and programs and developing incentives for continuous improvement on behalf of children and families.

There is growing consensus in the field about the need for improvements in these areas. The remaining challenges relate to the best ways to make progress in all of them.

Thank you for the hope you have given to hundreds of thousands of children and youths across the country. The Children’s Defense Fund looks forward to continuing to work with the Subcommittee to ensure that this hope is realized for these children and to take the next steps so we can get the job done for children.