

Child Welfare Provisions of the Consolidated Appropriations Act, 2021



On December 27, 2020, President Trump signed into law the [Consolidated Appropriations Act, 2021](#), which combines a \$1.4 trillion year-end funding package with a \$900 million dollar COVID-19 relief package. The law contains several important provisions related to the child welfare system.

Division X – Supporting Foster Youth and Families Through the Pandemic Act

The law contains the bipartisan [Supporting Foster Youth and Families through the Pandemic Act \(H.R.7947\)](#), which was introduced by Chairman Danny Davis (D-IL) and Ranking Member Jackie Walorski (R-IN) of the Worker and Family Support Subcommittee of the House Ways and Means Committee and provides critical relief to young people in or aging out of foster care, vulnerable children and families in or at risk of entering foster care, relative caregivers who step in to care for children, along with needed investments to help state and tribal child welfare agencies adjust practice in response to the pandemic.

SEC. 3. CONTINUED SAFE OPERATION OF CHILD WELFARE PROGRAMS AND SUPPORT FOR OLDER FOSTER YOUTH

Provides additional funds for the John H. Chafee Foster Care Program for Successful Transition to Adulthood and makes several important policy changes. Unless otherwise stated, these changes remain in effect for the duration of the public health emergency period (April 1, 2020 through September 30, 2021).

- Provides an additional \$400 million for Chafee for FY2021, of which \$50 million is reserved for Education and Training Vouchers (ETV).
 - There is no state match requirement for these funds.
 - Increases the maximum allowable amount per individual for ETVs from \$5,000 to \$12,000 through FY2022.
 - Allocates \$500,000 to provide technical assistance to states implementing or seeking to implement driving and transportation programs for foster youth.
 - Providers qualify for this assistance if they demonstrate successfully administering activities in one of more states to provide driver's licenses to youth in foster care and increase the number of youth in foster care who obtain a driver's license.
 - These funds are not subject to penalties for failure to comply with the data reporting requirements for the National Youth in Transition Database (for April 1, 2020 through September 2022).
 - HHS is prevented from requiring jurisdictions to provide proof of a direct connection between use of these funds and the pandemic if doing so would be administratively burdensome or would cause delay or impede the ability to serve youth.
 - The existing reservation of 1.5 percent of funds for evaluations applies to the additional Chafee funds.
- Raises the maximum age for eligibility, so youth can receive services and assistance until age 27, during FY2020 and FY2021.
- Suspends the requirement that a youth be enrolled in a postsecondary education or training program or making satisfactory progress towards completion to be eligible for ETV if the youth is unable to do so because of the COVID-19 public health emergency.

- Clarifies that under these provisions the ETV vouchers may be used to maintain training and postsecondary education costs, such as less than full-time matriculation costs or other expenses that are not part of the cost of attendance but that help the youth remain enrolled.
- Removes the 30 percent cap in Chafee for housing assistance (for youth ages 18 to 27 who were in foster care at age 14 or older).
- Provides authority for a state to use Chafee funds to support youth with costs related to obtaining a driver's license or driving in the state.
 - States may spend up to \$4,000 per year, per child.
 - Assistance provided under this provision shall be disregarded for the purposes of determining the recipient's eligibility for or amount of any federal or federally supported assistance.
 - Eligible uses include: vehicle insurance costs, driver's education classes and testing fees, practice lessons, practice hours, license fees, roadside assistance, deductible assistance, and assistance in purchasing an automobile.
 - Requires the Secretary to submit a report to Congress within six months of the end of the expenditure period on the extent and manner in which funds provided for technical assistance with this program were utilized.

SEC. 4. PREVENTING AGING OUT OF FOSTER CARE DURING THE PANDEMIC

Prohibits states from requiring a child to leave foster care solely due to their age – regardless of whether the state has exercised the option to provide extended foster care beyond age 18 – to ensure no young person is cut off from critical housing and support services during the COVID-19 public health emergency period (April 1, 2020 through September 30, 2021). Children may not be found ineligible for Title IV-E foster care maintenance payments solely due to age, during the public health emergency period.

- Permits youth who aged out of foster care during the COVID-19 public health emergency period to voluntarily re-enter care.
 - States are required to provide notice of the option to return to foster care to all youth who were formally discharged during the COVID-19 public health emergency period due to age, and to facilitate the voluntary return of these youth.
 - States are required to conduct public awareness campaigns about the option to voluntarily re-enter foster care for youth under age 22 who aged out of foster care in FY2020 or FY2021, and who are otherwise eligible to return to foster care.
- Continues protections for youth in foster care to ensure their safety, permanence, and well-being, and requires jurisdictions to work with any youth who remains in foster care beyond age 18 to develop, review or revise a transition plan, and identify adults who can offer meaningful and permanent connections.
- Allows jurisdictions to use the new additional Chafee funds to meet any of the costs incurred in complying with these provisions.
 - These additional Chafee funds cannot be used on behalf of children who are otherwise eligible for Title IV-E foster care maintenance payments, including youth who remain eligible for such payments because of the suspension of requirements that youth be enrolled in postsecondary education or training programs. For youth who are eligible for Title IV-E foster care funds, federal match of administrative and maintenance costs remains available.
 - Funds are available for this purpose through the end of FY2021.

SEC. 5. FAMILY FIRST PREVENTION SERVICES PROGRAM PANDEMIC FLEXIBILITY

Temporarily increases the federal reimbursement rate up from 50 percent to 100 percent for the Title IV-E Prevention Program, created under the Family First Prevention Services Act of 2018, for the duration of the COVID-19 public health emergency period (April 1, 2020 through September 30, 2021).

SEC. 6. EMERGENCY FUNDING FOR THE MARYLEE ALLEN PROMOTING SAFE AND STABLE FAMILIES PROGRAM

Provides an additional \$85 million through FY2021 to Title IV-B, Part 2 the MaryLee Allen Promoting Safe and Stable Families Program. There is no state match requirement for these additional funds.

SEC. 7. COURT IMPROVEMENT PROGRAM

Reserves \$10 million from the additional Promoting Safe and Stable Families Program funds for the Court Improvement Program through FY2021.

- These funds shall be used for activities related to the COVID-19 public health emergency, such as technology investments, trainings to facilitate remote hearings, and programs to help families avoid delays in legal proceedings as a result of COVID-19, or other purposes to assist courts, court personnel, or related staff related to the COVID-19 public health emergency.
- Funds will be distributed as follows:
 - \$500,000 is reserved for Tribal court improvement activities.
 - Each highest state court approved to receive Court Improvement Program funds in FY2021 will receive \$85,000.
 - Remaining funds will be divided among the highest state courts approved to receive Court Improvement Funds in FY2021 according to the percentage of children under 21 years of age in all states receiving Court Improvement Program funds that reside in that state (based on the most recent census information).
- There is no state match requirement for these additional funds.
- There is no application requirement for these additional funds.
- The Secretary may establish reporting requirements for these additional funds.
- If a highest state court does not accept these funds, or does not comply with reporting requirements, the Secretary shall redistribute funds among the other highest state courts that receive funds.

SEC. 8. KINSHIP NAVIGATOR PROGRAMS PANDEMIC FLEXIBILITY.

Improves the ability of kinship navigator programs to reach more kinship caregivers raising children - particularly those who are older and more susceptible to the novel coronavirus - and provide critical supports to these families.

- Temporarily waives the evidence-based requirement tied to Title IV-E reimbursement for these programs through the COVID-19 public health emergency period (April 1, 2020 through September 30, 2021). Jurisdictions must provide assurances that the program will be, or is in the process of being, evaluated for building an evidence base to later meet the requirements established in Family First.
- Allows funds to be used to carry out a kinship navigator program, including:
 - Evaluations, independent system review, and related activities;
 - Short-term support for direct services or assistance; and
 - To ensure that kinship caregivers have the information and resources to allow kinship families to function at their full potential, including
 - Access to information and resources for necessities (i.e. food, safety supplies, testing and treatment for COVID-19);
 - Access to technology to support remote learning or other activities that must be carried out virtually due to COVID-19;
 - Health care and other assistance (including legal assistance and assistance with making alternative care plans for the children in their care if the caregiver is unable to care for the children);
 - Services to kin (including for those outside of the formal child welfare system); and
 - Assistance to allow children to continue safely living with kin.

- There will be 100 percent federal reimbursement for these funds.
- These funds are exempt from the cap on payments territories are eligible to receive in the fiscal year.

SEC. 9. ADJUSTMENT OF FUNDING CERTAINTY BASELINES FOR FAMILY FIRST TRANSITION ACT FUNDING CERTAINTY GRANTS

Provides adjustments from July 1, 2020 through December 31, 2021 of funding certainty baselines for the Family First Transition Act funding certainty grants so that temporary Federal Medical Assistance Percentages (FMAP) increases don't reduce grant amounts.

SEC. 10. ALLOWING HOME VISITING PROGRAMS TO CONTINUE SERVING FAMILIES SAFELY

Allows virtual home visits to be considered home visits under the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV) during the COVID-19 public health emergency (April 1, 2020 through September 30, 2021).

- Defines “virtual home visit” to mean a home visit, as described in the applicable service model, that is conducted solely by the use of electronic information and telecommunications technologies.
- Ensures funding will not be reduced on account of reduced enrollment.
- Funds can be used for training on virtual visits, enrolling families, and providing emergency supplies to families.
- Delays deadlines tied to the MIECHV program, including the statewide needs assessment, waiving performance measures, or allowing alternative data sources to show improvement in performance.
- The Secretary may delay the October 1, 2020 deadline for reviewing and updating any needs assessment requirements and will provide guidance to eligible entities on the parameters used in extending a deadline.

SEC. 11. TECHNICAL CORRECTION TO TEMPORARY INCREASE OF MEDICAID FMAP

Offers a technical correction to the Families First Coronavirus Response Act to ensure the District of Columbia receives the enhanced FMAP rate.

Division Q, Section 103 – Fostering Stable Housing Opportunities Act

The bill also includes the bipartisan [Fostering Stable Housing Opportunities Act \(H.R.4300/S.2803\)](#), which was introduced by Representatives Madeleine Dean (D-PA), Michael Turner (R-OH), Karen Bass (D-CA), and Steve Stivers (R-OH) in the House and Senators Sherrod Brown (D-OH) and Chuck Grassley (R-IA) in the Senate. The bill makes it easier for youth aging out of the child welfare system who are at risk of homelessness to access Family Unification Program (FUP) vouchers by allowing them to apply for housing assistance prior to aging out of care and giving them top priority when furnishing housing assistance. Additionally, the bill:

- Streamlines access to FUP vouchers for Public Housing Agencies (PHAs) in more communities, making it easier to serve foster youth anywhere they live.
- Extends a foster youth’s FUP voucher for up to an additional 24 months as they are working toward self-sufficiency, including participating in a Family Self Sufficiency program.
- Requires coordination between PHAs and Public Child Welfare Agencies to identify eligible recipients and help housing agencies to connect youth to supportive services.
- Requires PHAs to submit information to the Secretary to monitor program outcomes.

Division H, Title II – Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2021: Department of Health and Human Services

- \$20 million for developing, enhancing, and evaluating kinship navigator programs.
- \$2.75 million for the Title IV-E Prevention Services Clearinghouse.

Division L, Title II – Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2021: Department of Housing and Urban Development

- \$25 million for the FUP voucher program, with \$20 million set aside for young people.
 - Of this \$20 million, up to \$10 million is available on a noncompetitive basis to public housing agencies that partner with public child welfare agencies to identify eligible youth.
 - The Secretary shall review utilization of the \$10 million (at a time determined by the Secretary) and any unutilized funds shall be recaptured and reallocated for young people.
- \$5 million to expand the supply of intergenerational dwelling units for elderly caregivers raising children.

Division M, Title III – Coronavirus Response and Relief Supplemental Appropriations Act, 2021: Department of Health and Human Services

- \$50 million for Project AWARE to build capacity in schools to address trauma and mental health needs.
- \$10 million for the National Child Traumatic Stress Network.

Division CC, Title III, Section 305 – Extension of MaryLee Allen Promoting Safe and Stable Families Program and State Court Support

- Extends the MaryLee Allen Promoting Safe and Stable Families Program through FY2022.
- Simplifies reauthorization of the Court Improvement Program by amending section 438 of the Social Security Act providing a technical correction to clarify that all three Court Improvement Program grants will be authorized together without requiring additional offsets from the federal budget. This fix originated in the [COURTS Act](#) (S.2587/H.R.4514), which was introduced by Senators Kamala Harris (D-CA) and John Cornyn (R-TX) and Representative Kevin Brady (R-TX).

Division FF, Title VII – FAFSA Simplification

Makes several significant changes to the Free Application for Federal Student AID (FAFSA) program to help streamline the process for youth with experience in foster care and unaccompanied homeless youth. The provisions in this simplification take effect on July 1, 2023.

- Removes the requirement that foster youth and unaccompanied homeless youth recertify their determinations of independence each year.
- Requires institutions to accept the following as adequate documentation that a student was in foster care:
 - A court order or official state document;
 - A phone call, written statement, or verifiable electronic data match from:
 - A state, county, or tribal Title IV-E or IV-B agency;
 - A state Medicaid agency; or
 - A public or private foster care placing agency, foster care facility, or foster care placement;
 - A phone call or written statement from an attorney, guardian ad litem, or Court Appointed Special Advocate;
 - Verification of eligibility for Chafee ETV; or
 - A phone call or statement from a financial aid administrator who documented the child's circumstance in prior year.
- Ensures there is only one, easily understood screening question to identify an applicant who is an unaccompanied homeless youth or is unaccompanied, at risk of homelessness, and self-supporting.
- Expands the list of forms of documentation that can be used to make a determination of independence for unaccompanied homeless youth. If youth are unable to provide documentation, the bill requires that a case-by-case determination be made based on a written statement or interview.
- Gives financial aid administrators the authority to make a determination of independence for students who would not otherwise qualify based on “other unusual circumstances” where a student cannot contact a parent or where contact with parents would put a student at risk, including:

- Human trafficking;
- Refugee or asylum status;
- Parental abandonment or estrangement; or
- Student or parental incarceration.