2007 DRAFTING REQUEST

Bill

Received: **06/15/2007**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Health and Family Services 1-8306**

By/Representing: **Cathy Connolly**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement**
Children - abuse and neglect

Extra Copies:

Submit via email: **YES**

Requester's email: **ConnoC1@dhfs.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Out-of-home placements of children and child abuse reporting

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise 09/18/2007	csicilia 09/24/2007		_____ _____		for Rep. Seidel per DHFS	S&L
/1			jfrantze 09/24/2007	_____ _____	cduerst 09/24/2007		S&L
/2	gmalaise 11/29/2007	csicilia 12/21/2007	nnatzke 01/04/2008	_____ _____	sbasford 01/04/2008	sbasford 02/14/2008	

FE Sent For: "1/2" @ intro. 2-21-08

<END>

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Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise		9/26	9/26			

FE Sent For:

<END>

Malaise, Gordon

From: Connolly, Cathleen - DHFS
Sent: Thursday, June 14, 2007 10:23 AM
To: Malaise, Gordon
Cc: Durkin, Therese A - DHFS; Johnson, Sarah Kate K - DHFS; Jones, Jennifer A - DHFS; Lehr, Lynn M - DHFS; Mitchell, Mark S - DHFS; Paul, June C - DHFS; Jensen Goodwin, Michelle M - COURTS
Subject: Request for drafting

Attachments: DraftingInstructionsFederalBill Draft 3 6-14-07.doc

DraftingInstructions FederalBil...

Hi Gordon,
The Division of Children and Family Services in cooperation with the Director of State Courts is requesting that a bill be drafted that addresses recent changes in federal law that Wisconsin must comply with.
I am attaching drafting instructions which include the federal statutory references that support the requested state statutory changes.
If any of this is unclear please let me know. If you would like to meet with us to discuss the request in further detail we would be happy to do so.
Thank you.

Cathleen Connolly
Legislative and Policy Consultant
Bureau of Programs and Policies
Division of Children and Family Services Department of Health and Family Services
608-261-8306
connoc1@dhfs.state.wi.us

Drafting Instructions
Joint Federal Compliance Bill
Department of Health and Family Services
Director of State Courts Office

The Department of Health and Family Services and the Director of State Courts Office are requesting a bill be drafted for introduction into the Wisconsin State Legislature that would bring Wisconsin into compliance with recent changes in federal law.

The following provisions have been drafted for other proposed legislation:

- Changes arising from the Adam Walsh Child Protection and Safety Act:
  - expanding the requirement that all prospective foster or adoptive parents receive a criminal background check regardless of whether foster care maintenance or adoption assistance payments are made;
  - criminal background check must include fingerprints that are submitted to the federal NCID database;
  - states must check with out-of-state Child Abuse and Neglect (CAN) registries if the proposed foster parent, adoptive parent, or any other adult in the household have lived in another state in the previous five years;
  - Ensure that any release of information obtained from fingerprinting or CAN registries meets federal and state confidentiality requirements.
  - **LRB 0841/5 (part of 2007-09 Budget)**

- Changes required by Title IV-E placement and care requirements
  - **LRB 0261/5 (part of 2007-09 Budget)**

The following requirements are new requests:

- Authority of Circuit Court Commissioners to conduct permanency plan hearings at the six month intervals. Please make the following changes:

  - The Title IV-E Foster Care Eligibility On-site Review Instrument and Instructions states that when the contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to achieve the goals of the permanency plan findings of fact are made, the judicial determination are required to be " …signed by a reviewing judge **or other State designated court official**, if a signature is required in State law…." (emphasis added)
  - Because permanency plan hearings were created in the same legislative session in which circuit court commissioner duties were consolidated into Ch. 757, the issue of whether circuit court commissioners should be granted the authority to conduct permanency plan hearings was not addressed in statute. Based on Title IV-E reviews conducted in other states, it is necessary to clarify in statute that it is expressly permissible for circuit court commissioners to serve as a designated court official for the purpose of conducting permanency plan hearings.
  - We propose creating s. 757.69(1)(g)14. to read "conduct permanency plan hearings under s. 48.38(5m)." 48.38(5) too?

- Notification of a drug-affected infant.

- The federal Child Abuse Prevention and Treatment Act (CAPTA) [Sec. 5106a (b)(2)(A)(ii)] requires that the child protective services agency be notified in the case of a drug-affected infant. However, under the federal law this status does not by itself constitute child abuse.
- Wisconsin section 146.0255(2), Stats., requires that health care providers report to an agency under s. 46.238, Stats., when an infant or expectant mother is affected by illegal substance abuse.
- Section 46.238, Stats., requires that if a social services or human services agency, or a community mental health, developmental disability, or alcohol or other drug addiction services program, or a developmental disability services agency receives a report from a health care provider under s. 146.0255(2), then the agency has to provide appropriate services or arrange for appropriate services to be provided.
- To address the federal requirement that the report be made to the CPS agency change Wis. s. 146.0255(2), Stats., to require that the health care provider make a report to the subunit of the county department under s. 46.22 or 46.23 or, in a county of 500,000 or more, to the department, that is responsible for investigating reports under s. 48.981, Stats.,.
- Change s. 46.238, Stats., to require that if the various agencies currently listed in the statute receive a report from a health care provider, or the county agency or department responsible for investigating reports under s. 48.981., Stats., the agency has to provide services or arrange for provision of services.

- Court or review panel consultation with children. (AC 189-288)
  - The federal Child and Family Services Improvement Act of 2006 requires that courts or administrative review panels consult with children in an age appropriate manner at the permanency plan hearings or reviews about the permanency plan and, if the child is over age 15 and has an independent living plan, about the IL plan. The requirement is contained in the Social Security Act section 475(5)(C). 48.38(4)(h)
  - We propose changes to s. 48.38(4) and 48.38(5) and (5m), Stats., that would:
    - Require consultation at perm plan hearings and reviews.
    - Require that consultation occur in an age appropriate and developmentally appropriate way.
    - Require that if the case worker decides it is not age appropriate for the child to consult with the court or administrative panel, reasons for the decision must be documented in the permanency plan.
    - Require that if the case worker decides there is not an effective developmentally appropriate means of consulting with the child, that the decision and reasons for the decision must be documented in the permanency plan.
    - Allow the case worker to decide if it is age appropriate for a child to be consulted in administrative review permanency hearings and court hearings, but, for court hearings, allow the court to require the child's presence even if caseworker does not agree.
    - Consultation can be oral (any kind, no limits), written information from the child, or information provided by the child's caseworker, Guardian ad Litem, or attorney in the proceeding who is in a position to represent to the court the child's position. The person has to clearly identify that they are representing the child's wishes, not the child's best interest. GAL rep's best int, not wishes 48.235(3)(a)
    - The requirement to consult does not require the physical presence of the child at the hearing. May also want to place this in s. 48.291, Stats. 48.299(3)? Consultant saying – my consult in writing

???

Consultation

presence

presence? consult?

- The court must consult with the child, or the person representing the child's position about the proposed permanency plan and, when a child has an independent living plan, about the IL plan, and may consult on any other matters the court finds appropriate.

- Right to notice and right to be heard
  - The federal Safe and Timely Interstate Placement of Foster Children Act amended the Social Security Act to require notice of hearings to foster parents and a right to be heard at those hearings. They continue to be non-parties. Social Security Act sections 475(5)(G) and section 438(a)
  - Current Wisconsin statutes require that certain physical custodians be provided with the opportunity to be heard at a hearing about the child in their care. Change the language to provide a "right to be heard" at those hearings.
  - Current Wisconsin statutes require that certain physical custodians be provided with notice of a variety of hearings about a child in their care. This includes the child's foster parent, treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living with as of the date of the hearing.
  - In each statute that provides for notice to those physical custodians change the description to foster parent, treatment foster parent, preadoptive parent, and relative providing care. If the operator of the facility in which the child is living is included in the statute now, then they should stay in the statute. This will require the definition of "pre-adoptive parent." A pre-adoptive parent is one with whom the child is placed by a court, agency or relative under s. 48.833, 48.835, or 48.837, Stats., after a termination of parental rights,

always a foster parent or relative

PL. 109-239

- Court provisions in Safe and Timely Interstate Placement of Children Act [Social Security Act 438(a)(1)(E).]
  - The following provisions should be added to the current ICPC statute 48.988
    - Requiring courts to cooperate with courts in other states in the sharing of information; within current confidentiality requirements. 42 USC 629h (a)(1)
      - authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and
      - permitting courts to allow the participation of parents, children, other necessary parties, and attorneys in hearings in cases involving interstate placement without requiring their interstate travel;

- Agency provisions in Safe and Timely Interstate Placement of Children Act.
  - The new federal statute requires that, when placing a child, agencies consider out-of-state (and in-state) placements when appropriate as part of the reasonable efforts to meet the goals of the permanency plan [Social Security Act Sec. 471(a)(15)(C)]. Wisconsin s. 48.38(4) should be changed to add after s. 48.38(4)(br), a requirement to consider out of state placements only when it is appropriate to achieving the goal of the permanency plan and best interests of the child. If the agency thinks out of state placement is not appropriate the permanency plan should have a statement why it is not appropriate.

48.38(4) (4)(fm) corresponds to 671(a)(15)(E)

- It also requires that when the agency alleges that reasonable efforts to achieve reunification will not be made because the parent has subjected the child to aggravated circumstances, and the courts sets a 30-day permanency plan hearing to consider placement, both in-state and out-of-state placements have to be considered at the hearing [Social Security Act Sec. 471(a)(15)(E)(i)]. Wisconsin s. 48.355(2d)(c), Stats., should be changed to require that at the hearing the court consider both in-state and out-of-state placements if appropriate, see change above to s.48.38(4). = CR 48.38(4m)
- It also requires that when making reasonable efforts to place a child for adoption or legal guardianship as part of a concurrent permanency plan, that both in-state and out-of-state placements be considered [Social Security Act Sec. 471(a)(15)(F)]. Wisconsin s.48.355(2b), Stats., should be changed to add a subsection (b) that if the agency develops a concurrent plan then the court must consider whether an out of state placement meets the goal of the permanency plan. 48.355(2b)
- It also requires that at a permanency plan hearing or review if it is determined that the child will not be returned to the parent, both in-state and out-of-state placement options must be considered, and, if the child is already in an out-of-state placement, whether that placement is still appropriate and in the child's best interest [Social Security Act Sec. 475(5)(C)]. Wisconsin s. 48.38(4), Stats. should be changed to require that the permanency plan contents include a discussion on whether out-of-state placement options were considered and, if the child is in an out-of-state placement, discussion on whether the placement is still appropriate and in the child's best interest. In addition, Wisconsin s. 48.38(5)(c)7., and ~~48.38(5m)~~(c)7, Stats., should be changed to include a determination that out-of-state placements were considered and, if the child is in an out of state placement, that it is appropriate and in the child's best interest. 48.38(5) A&(c)

Malaise, Gordon

From: Connolly, Cathleen - DHFS
Sent: Friday, June 22, 2007 8:36 AM
To: Malaise, Gordon
Subject: Fwd: Re: [cip_grantees] Consulting with Youth on PermanencyPlans

Attachments: Re: [cip_grantees] Consulting with Youth on Permanency Plans

Re: [cip_grantees] Consulting ...

Hi Gordon,
I am attaching an e-mail with Indiana's new statute on consulting with youth, which is one of the items in our federal changes bill. This is just an example and not exactly what the Division wants to do.

Also, we have one more requested change under the placement and care provisions in the federal changes bill. In s. 48.357, Stats., change of placment, we need to make clear that the court must issue an order when a notice of change of placement is filed and no one objects after 10 days. Right now, if no hearing is scheduled, some courts and agencies just move the child without ever getting an order. We need orders. We are thinking under s. 48.357(1)(am)2. a clause could be added, or create a new 48.357(1)(am)4, or you may have a better idea.

That's all for now on the federal changes bill.

Are you going to Henry Plum's training this year? Given the budget may not be done, and not much else is happening legislatively I am hoping it is all about case law.

Cathleen Connolly
Legislative and Policy Consultant
Bureau of Programs and Policies
Division of Children and Family Services Department of Health and Family Services
608-261-8306
connoc1@dhfs.state.wi.us

Malaise, Gordon

From: ngetting@courts.state.in.us [cip_grantees@listserve.calib.com]
Sent: Wednesday, June 20, 2007 12:10 PM
To: ngetting@courts.state.in.us; Court Improvement Program
Subject: Re: [cip_grantees] Consulting with Youth on Permanency Plans
Attachments: Header

This is a Court Improvement Program Listserve message -----
Indiana passed legislation that becomes effective July 1.....this is the relevant language from the enrolled act some to become promulgated law.

SECTION 74. IC 31-34-21-7, AS AMENDED BY P.L.145-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision ~~(4);~~ **(5);**

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;

in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

~~(4)~~ **(5)** consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

~~(5)~~ **(6)** determine whether an existing permanency plan must be modified; and

~~(6)~~ **(7)** examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

(1) require the department to send notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and

(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(c) of this chapter.

This summer during meetings with our Juvenile Justice Improvement Committee there was a great

deal of discussion as to what "age appropriate" manner means and you will note that the decision as to what is age appropriate is left to the discretion of the court. I believe that the inclusion of a report or interview with the child's GAL and/or CASA, the case manager or the foster parents was driven by our judges' concerns that about how to speak to a child that is not yet verbal.

Nancy --- You are currently subscribed to cip_grantees as: michelle.jensen-goodwin@wicourts.gov If you any questions, please email cip_grantees_admin@calib.com To change your settings or access your messages via the web, go to http://lists.calib.com/read/?forum=cip_grantees To unsubscribe send a blank email to leave-cip_grantees-19548K@listserve.calib.com

Malaise, Gordon

From: Malaise, Gordon
Sent: Friday, June 22, 2007 2:49 PM
To: Connolly, Cathleen - DHFS
Subject: RE: Re: [cip_grantees] Consulting with Youth on PermanencyPlans

Cathy:

Thank you for the IN language. Actually, I've had some time to work on the draft and, as usual, there are a few things about which I am unclear. Specifically:

1. Court commissioners. The instructions call for permitting circuit court commissioners to conduct permanency plan hearings under s. 48.38 (5m), but I see no reason why they cannot also conduct permanency plan reviews as well under s. 48.38 (5). Yes 48.38 (5) too

2. Consultation with the child.

A. The 5th bullet point of the instructions call for the caseworker to decide if it would be age appropriate to consult with the child, but for the court to require the child's presence if the caseworker disagrees. The problem I have with this instruction is with the word "presence" instead of "consultation." If the caseworker decides that the court should not consult with the child, he or she is not disagreeing with the child being present, he or she would be disagreeing with the child being consulted. The terms are not synonymous. A child can be present without being consulted or can be consulted without being present. The federal mandate is for consultation. Presence is not an issue. Therefore, I am construing "presence" to mean "consultation," i.e., the caseworker makes the initial determination not to let the court consult the child, but the court may overrule that decision and consult with the child.

B. The 6th bullet point of the instructions list the guardian ad litem among the people who may express the child's wishes. As I'm sure you are aware, under s. 48.235 (3) (a), the GAL's ethical duty is to advocate for the child's best interests and, if the child's wishes and best interests do not coincide, the GAL must so advise the court and the court may appoint adversary counsel. Therefore, in the draft, the GAL will be authorized to express the child's wishes, subject to s. 48.235 (3) (a).

I will also add the child's court-appointed special advocate (CASA) to the list of people who may express the child's wishes as in the IN language.

C. The 7th bullet point says that the consultation requirement does not require the physical presence of the child. I am inclined to omit this bit because it already goes without saying that the child's presence is not required because the child or a person on behalf of the child may consult in writing as well as orally.

Also, the reference to s. 48.291 appears to be a typo in that no such reference exists.

3. Right to be heard. Adding a reference to a preadoptive parent under s. 48.833, 48.835, or 48.837 after a TPR appears to be unnecessary because under WI law, a proposed adoptive parent will always be a foster parent under s. 48.833 or 48.837 (1) or a relative under s. 48.835. As such, the current references to foster parent and relative will suffice.

The only limited instance in which a proposed adoptive parent after a TPR might not be a foster parent or relative would be the case of an interstate adoption under s. 48.837 (1m), but in that case WI wouldn't have jurisdiction anymore anyway after the TPR under ss. 48.83 (1) and 48.837 (6) (d) because after the TPR neither the child nor the adoptive parents would be physically present in this state and subject to its jurisdiction. The courts of the state of residence would take it from there.

4. Interstate compact. Interstate compacts are contracts between the states. Therefore, they have to be identical in each state so that there is a meeting of the minds. As such, I can place the language about interstate cooperation near, but not in, the interstate

compact section.

5. Out-of-state placements. Section 48.38 (4) (fm) corresponds to 42 USC 671 (a) (15) (C), so I will amend that provision to incorporate the out-of-state placement language.

That's all I have for now. With the budget hanging out there, I will not be able to make it to Henry's training this year, but I just talked to him yesterday and he will include discussion of some of the proposed bills in the legislative update portion of the program. Indeed, heads up, in my absence he'll probably be calling on you to explain things like "care and placement responsibility" and the status of the ICWA proposal.

Gordon

-----Original Message-----
From: Connolly, Cathleen - DHFS
Sent: Friday, June 22, 2007 8:36 AM
To: Malaise, Gordon
Subject: Fwd: Re: [cip_grantees] Consulting with Youth on Permanency Plans

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Legislative and Policy Consultant
Bureau of Programs and Policies
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608-261-8306
connoc1@dhfs.state.wi.us

Malaise, Gordon

From: Connolly, Cathleen - DHFS
Sent: Friday, June 29, 2007 3:06 PM
To: Malaise, Gordon
Cc: Durkin, Therese A - DHFS; Johnson, Sarah Kate K - DHFS; Mitchell, Mark S - DHFS; Jensen Goodwin, Michelle M - COURTS
Subject: RE: Re: [cip_grantees] Consulting with Youth onPermanencyPlans

Hi Gordon,
Looks like you'll be working hard in July - bummer.

With regard to your questions:
1. yes you are right.
2. A. You're right, I was mixing up two concepts - it is that the caseworker can decide if the child is too young or too disabled to consult with the court, and then the court can override.
2. B. good change, as long as the appointment of adversary counsel remains discretionary with the court. With regard to CASAs, please do not add them.
2. C. OK, delete.
3. You're right, but we are trying to use the federal language so that we don't get into trouble when they do Title IVE audits (like placement and care), so we would still like to go with preadoptive parent.
4. OK, please place as close as possible.
5. OK

Thank you. Let me know if anything else comes up.

Cathleen Connolly
Legislative and Policy Consultant
Bureau of Programs and Policies
Division of Children and Family Services Department of Health and Family Services
608-261-8306
connocl@dhfs.state.wi.us

>>> "Malaise, Gordon" <Gordon.Malaise@legis.wisconsin.gov> 6/22/2007 2:49 PM >>>
Cathy:

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Also, the reference to s. 48.291 appears to be a typo in that no such reference exists.

3. Right to be heard. Adding a reference to a preadoptive parent under s. 48.833, 48.835, or 48.837 after a TPR appears to be unnecessary because under WI law, a proposed adoptive parent will always be a foster parent under s. 48.833 or 48.837 (1) or a relative under s. 48.835. As such, the current references to foster parent and relative will suffice.

The only limited instance in which a proposed adoptive parent after a TPR might not be a foster parent or relative would be the case of an interstate adoption under s. 48.837 (1m), but in that case WI wouldn't have jurisdiction anymore anyway after the TPR under ss. 48.83 (1) and 48.837 (6) (d) because after the TPR neither the child nor the adoptive parents would be physically present in this state and subject to its jurisdiction. The courts of the state of residence would take it from there.

4. Interstate compact. Interstate compacts are contracts between the states. Therefore, they have to be identical in each state so that there is a meeting of the minds. As such, I can place the language about interstate cooperation near, but not in, the interstate compact section.

5. Out-of-state placements. Section 48.38 (4) (fm) corresponds to 42 USC 671 (a) (15) (C), so I will amend that provision to incorporate the out-of-state placement language.

That's all I have for now. With the budget hanging out there, I will not be able to make it to Henry's training this year, but I just talked to him yesterday and he will include discussion of some of the proposed bills in the legislative update portion of the program. Indeed, heads up, in my absence he'll probably be calling on you to explain things like "care and placement responsibility" and the status of the ICWA proposal.

Gordon

-----Original Message-----
From: Connolly, Cathleen - DHFS
Sent: Friday, June 22, 2007 8:36 AM
To: Malaise, Gordon
Subject: Fwd: Re: [cip_grantees] Consulting with Youth on Permanency Plans

Hi Gordon,
I am attaching an e-mail with Indiana's new statute on consulting with youth, which is one of the items in our federal changes bill. This is just an example and not exactly what the Division wants to do.

Also, we have one more requested change under the placement and care provisions in the federal changes bill. In s. 48.357, Stats., change of placement, we need to make clear that the court must issue an order when a notice of change of placement is filed and no one objects after 10 days. Right now, if no hearing is scheduled, some courts and agencies just move the child without ever getting an order. We need orders. We are thinking under s. 48.357(1)(am)2. a clause could be added, or create a new 48.357(1)(am)4, or you may have a better idea.

That's all for now on the federal changes bill.

Are you going to Henry Plum's training this year? Given the budget may not be done, and not much else is happening legislatively I am hoping it is all about case law.

Cathleen Connolly
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PUBLIC LAW 109–239—JULY 3, 2006

SAFE AND TIMELY INTERSTATE PLACEMENT OF FOSTER CHILDREN ACT OF 2006

(A) by inserting "a copy of the record is" before "supplied"; and

(B) by inserting ", and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law" before the semicolon.

SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) IN GENERAL.—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking "an opportunity" and inserting "a right";

(2) by striking "and opportunity" and inserting "and right"; and

(3) by striking "review or hearing" each place it appears and inserting "proceeding".

(b) NOTICE OF PROCEEDING.—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting "shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and" after "highest State court". 42 USC 629h.

SEC. 9. COURT IMPROVEMENT.

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C); and

(2) by adding at the end the following:

"(E) that determine the best strategy to use to expedite the interstate placement of children, including—

"(i) requiring courts in different States to cooperate in the sharing of information;

"(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

"(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and".

SEC. 10. REASONABLE EFFORTS.

(a) IN GENERAL.—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting "(including, if appropriate, through an interstate placement)" after "accordance with the permanency plan".

(b) PERMANENCY HEARING.—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting ", which considers in-State and out-of-State permanent placement options for the child," before "shall".

(c) CONCURRENT PLANNING.—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting ", including identifying appropriate in-State and out-of-State placements" before "may".

SEC. 11. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting "to facilitate orderly and timely in-State and interstate placements" before the period.

Consult w/ child

which funds are to be awarded for the agreement; and

"(III) $15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

"(ii) ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least $25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.". 42 USCA § 629h

SEC. 9. REAUTHORIZATION OF THE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended in each of subsections (c)(1)(A) and (d) by striking "2006" and inserting "2011". 42 USCA § 675

SEC. 10. REQUIREMENT FOR FOSTER CARE PROCEEDING TO INCLUDE, IN AN AGE–APPROPRIATE MANNER, CONSULTATION WITH THE CHILD THAT IS THE SUBJECT OF THE PROCEEDING.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting "(i)" after "with respect to each such child,";

(2) by striking "and procedural safeguards shall also" and inserting "(ii) procedural safeguards shall"; and

(3) by inserting "and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;" after "parents;".

SEC. 11. TECHNICAL AMENDMENTS.

(a) UPDATING OF ARCHAIC LANGUAGE.— 42 USCA § 623

(1) Section 423 of the Social Security act, as so redesignated by section 6(b)(2) of this Act—

(A) is amended by striking "per centum" and inserting "percent"; and

(B) by striking "He" and inserting "The Secretary". 42 USCA § 624

(2) Section 424(a) of such Act, as so redesignated by section 6(b)(2) of this Act, is amended by striking "per centum" and inserting "percent". 42 USCA § 626

(b) ELIMINATION OF OBSOLETE PROVISION.—Section 426 of such Act (42 U.S.C. 626) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b). 42 USCA § 629a

(c) TECHNICAL CORRECTION.—Section 431(a)(6) of such Act (42 U.S.C. 629a(a)(6)) is amended by striking "1986" and inserting "1996". 42 USCA § 621 NOTE

SEC. 12. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning

carry out using amounts received under the grant to achieve the purposes of this title [42 USCS §§ 5101 et seq.], including—

(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

(i) [Unchanged]

(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to—

(I) establish a definition under Federal law of what constitutes child abuse; or

(II) require prosecution for any illegal action;

(iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms;

(iv) procedures for the immediate screening, risk and safety assessment, and prompt investigation of such reports;

(v) triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;

(vi) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

(vii) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

(viii) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act [42 USCS §§ 5101 et seq.] shall only be made available to—

(I) individuals who are the subject of the report;

(II) Federal, State, or local government entities, or any agent of such entities, as described in clause (ix);

(III) child abuse citizen review panels;

(IV) child fatality review panels;

(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(x) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

(xi) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

(xii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

(xiii) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings—

(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and