



2007 DRAFTING REQUEST

Bill

Received: 11/17/2006

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Rhodes**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Rhodes, BB0199 -

Topic:

Background investigations of proposed foster parents and adoptive parents

Instructions:

See Attached--1. Require background investigations, including fingerprinting and checking other states of residence within the last five years, of proposed foster parents and adoptive parents, regardless of whether they will be receiving payments. 2. Require DHFS to establish registry of substantiated child abuse and neglect cases, to share that information with the national registry and with other states requesting that information, and to establish safeguards against unauthorized disclosure.

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/?	gmalaise 12/01/2006	kfollett 12/07/2006		_____			S&L
/1			nmatzke 12/07/2006	_____	sbasford 12/07/2006		S&L
/2	gmalaise 12/19/2006	wjackson 01/03/2007	nmatzke 01/04/2007	_____	cdurst 01/04/2007		S&L

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/3	gmalaise 01/11/2007	kfollett 01/11/2007	pgreensl 01/12/2007	_____	sbasford 01/12/2007		S&L
/4	gmalaise 01/25/2007	kfollett 01/25/2007	nmatzke 01/25/2007	_____	cduerst 01/25/2007		S&L
/5	gmalaise 01/26/2007	kfollett 01/26/2007	pgreensl 01/26/2007	_____	cduerst 01/26/2007		

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1/26/07
PS/1/3

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		12/19/06 1/25	nwn 1/25	nwn/rs 1/25			

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*13 kjf
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X ps*

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/?	gmalaise	11/gf 12/7	nwn 12/7	nwn/pg 12/7			

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<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Adam Walsh Child Protection and Safety Act
- Tracking Code: BB0199
- SBO team: Health and Insurance
- SBO analyst: Dennis Rhodes
 - Phone: 6-2288
 - Email: dennis.rhodes@wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435
- Priority: Medium

Malaise, Gordon

From: Rhodes, Dennis - DOA
Sent: Wednesday, November 29, 2006 10:27 AM
To: Malaise, Gordon
Cc: Connolly, Cathleen - DHFS
Subject: FW: miscellaneous child welfare budget items

Attachments: RE: Request for bill draft - Adam Walsh Child Protection and Safety Act; Request for bill draft - Adam Walsh Child Protection and Safety Act



RE: Request for bill
draft - A...

Request for bill
draft - Adam ...

Gordon,

Drafts DHFS has requested related to the federal Adam Walsh Child Protection & Safety Act need to be converted to 07-09 budget drafts. Let me know if you need something from me other than this e-mail to make that official.

Thanks!

Dennis Rhodes
6-2288

Malaise, Gordon

From: Connolly, Cathleen
Sent: Tuesday, November 14, 2006 2:52 PM
To: Malaise, Gordon
Cc: Campbell, Mark; Dees, Sally Hanko; Durkin, Therese; Jennifer Fahy; Johnson, Sarah Kate; Klick, Connie; Mitchell, Mark; Morse, Mary; Smith, Amy; Wutt, Jason; Bridget Bauman; Michelle Jensen-Goodwin
Subject: Request for bill draft - Adam Walsh Child Protection and Safety Act

Dear Gordon:

The Division of Children and Family Services (DCFS) would like to request that a bill draft be prepared for introduction in the 2007-08 legislative session. As you may be aware, Congress passed the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248) in late summer and it was effective October 1, 2006. The Act contains several provisions that directly impact child welfare law.

The Act places new requirements on federal agencies and state agencies or their local counterparts, regarding the fingerprinting of foster parents and proposed adoptive parents, child abuse and neglect registries, and direct access to national criminal information databases.

The Division of Children and Family Services (DCFS) has made a request to the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), to delay implementation of the following provisions until January 1, 2008 in order to allow for the revision of state statutes, administrative rules, and Wisconsin's Title IV-E State Plan:

*That the state has procedures for conducting fingerprint-based background checks of the National Criminal Information Database (NCID) for all prospective foster and adoptive parents (even if they are not receiving Title IVE funding).

*That the state must check any child abuse and neglect registry in each state in which prospective foster and adoptive parents and any other adults living in the home have resided in the preceding five years.

*That the state must have safeguards in place to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state; and to prohibit the state from sharing the information obtained from a registry for purposes of background checks of foster and adoptive parents for any other purpose.

*That the state must respond to child abuse and neglect registry check requests made by other states.

The Division believes the following changes need to be made to WI statutes:

Require licensing agencies to do background checks of all prospective foster or adoptive parents before final approval - applies to all FP/AP regardless of whether they receive money --The background checks must include fingerprints submitted to the NCID --All agencies licensing or approving FP or AP must check the state Child Abuse and Neglect (CAN) registry for substantiated findings for FP, AP and any adult living in household. --All agencies licensing or approving FP or AP must check the CAN registry of any other state where the adults in the household may have lived in the last five years --Respond to inquiries from other states regarding individuals on the State's CAN registry - This should be part of creating a WI CAN registry --Agencies must have safeguards in place to prevent unauthorized disclosure of information in the State's CAN Registry and information received from other registries. Registry information that is obtained for licensing purposes must only be used for licensing purposes --Information obtained through a NCID fingerprint check can be used to investigate an incident of child abuse and neglect or to do background checks on FP and AP (Section 153)

Some items have not been determined yet. Such as how often foster parents would have to have their fingerprints taken. Please draft it as every two years and we can reconsider it. Another issue is who is an foster parent? We are certain that foster parents and treatment foster parents are in, and RCCs are out, but group homes are not clear. Therese Durkin will be doing some research in the near future and we can then provide better guidance. Which agencies can ask for a federal NCID fingerprint check is not clear. The Act says child welfare agencies can request and those are defined as the agency

administering Title IV B or IV E or a private agency under contract with the Title IVB or E agency, that is licensing foster parents or adoptive parents. What the term "under contract with" means is not clear.

Another section of the Act requires states to report individuals substantiated for child abuse and neglect to a newly created federal CAN registry. The Division has determined that the most efficient and effective means of meeting that requirement is to create (recreate?) a state CAN registry. So we are requesting that the bill draft create a registry for persons substantiated for child abuse and neglect.

One of the concerns that the Division has in creating a state CAN registry or providing information to a federal CAN registry is to ensure that any individual who will be listed in either registry has received due process during the course of his or her case. Therefore, we would like the bill to assign all child abuse and neglect substantiation appeals to the Division of Hearings and Appeals using their appeal procedure.

The Division is aware that at this point in the legislative cycle resources are being devoted to the development of the next biennial budget. However, we wanted to make you aware that the Division will be seeking these changes early in the 2007-08 session. If you would like to meet with Division staff, or need additional information before you begin to draft please let me know.

Also, would you please tell me an estimated date when a draft would be available for review.

As always, 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
connocl@dhfs.state.wi.us

Malaise, Gordon

From: Malaise, Gordon
Sent: Friday, November 17, 2006 12:27 PM
To: Malaise, Gordon
Subject: FW: Request for bill draft - Adam Walsh Child Protection and Safety Act

-----Original Message-----

From: Connolly, Cathleen
Sent: Thursday, November 16, 2006 2:58 PM
To: Malaise, Gordon
Cc: Mitchell, Mark
Subject: RE: Request for bill draft - Adam Walsh Child Protection and Safety Act

Thanks Gordon, I was just in a national teleconference on the child welfare provisions of the Act, and the representative for HHS/ACF said that they are interpreting the Act to require fingerprinting and CAN registry checks when a person is first licensed as an adoptive or foster parent and NOT at any subsequent re-licensing. But, if the person is a licensed foster parent (whether he or she has been fingerprinted before or not) and wants to be an adoptive parent, then they need to be fingerprinted. And we don't have to fingerprint those foster parents who are already licensed, just those who are licensed after the (hopefully new) effective date for Wisconsin.

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" <Gordon.Malaise@legis.wisconsin.gov> 11/16/2006
>>> 10:48:13 AM >>>
Cathy:

I've had a chance to take a quick look at your drafting instructions and the Adam Walsh Act. It appears that, although the Act is quite lengthy, the only provisions that are relevant for us are ss. 151 to 154 and 633, which narrows it down a lot.

I should have some time next week (after I get the ICWA redraft into editing) to take a closer look. At that time I'll have a better idea as to when I can get a draft to you. If I can knock it out in a day or two, maybe I'll be able to spare a little time during the budget-drafting process to do it. If, on the other hand, it will require a good week or more, then it will be more likely that I will not be able to get a draft out until after the governor's budget is introduced.

Gordon

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ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

1. Log No: ACYF-CB-IM-06-04

2. Issuance Date: September 1, 2006

3. Originating Office: Children's Bureau

4. Key Words: Criminal Background Checks; Child Abuse and Neglect National Registry; Foster and Adoptive Parents

INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: **NEW LEGISLATION:** The Adam Walsh Child Protection and Safety Act of 2006 (Public Law (P.L.) 109-248)

REFERENCES: Title IV-E of the Social Security Act (the Act); P.L. 109-248

PURPOSE: This is to inform State, Tribal and Territorial Title IV-B and IV-E agencies of the enactment of the Adam Walsh Child Protection and Safety Act of 2006 and provide basic information about the provisions of this law.

INFORMATION: The President signed the Adam Walsh Child Protection and Safety Act of 2006 into law on July 27, 2006. Among other things, the new law: 1) amends the Title IV-E background check requirements; 2) makes information in the National Crime Information Databases (NCID) available to government agencies when investigating child abuse or neglect; 3) requires the Attorney General to conduct fingerprint-based checks of the NCID for child welfare agencies for certain purposes; and 4) requires the U.S. Department of Health and Human Services (HHS) to establish a national registry of substantiated cases of child abuse and neglect.

We discuss the major child welfare provisions in more detail below:

Title IV-E Criminal Background Check Amendments (Section 152)

P.L. 109-248 amends Section 471(a)(20) of the Act in several ways with regard to the background checks for prospective foster and adoptive parents:

- ✍ States must have procedures for conducting fingerprint-based checks of the NCID for all prospective foster and adoptive parents (Section 471(a)(20)(A) of the Act as amended);
- ✍ States must check any child abuse and neglect registry in each State the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding five years. These checks must be made regardless of whether Title IV-E foster care maintenance payments or adoption assistance payments are to be made on behalf of the child (new Section 471(a)(20)(C)(i) of the Act); and
- ✍ States must have safeguards in place to: prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State; prohibit the State from sharing the information obtained from the registry pursuant to the foster and adoptive parent check requirement for any other purpose; and comply with child abuse and neglect registry check requests made by other States (new Section 471(a)(20)(C)(ii) and (iii) of the Act).

Effective Dates of the Title IV-E Provisions

- States that opted out of the criminal record check requirements in Section 471(a)(20) of the Act, prior to September 30, 2005, have until October 1, 2008, to have a procedure for criminal record checks, including fingerprint-based checks of the NCID. All other States must comply with the criminal record check requirements as amended effective October 1, 2006, unless the exception below applies.
- All States must comply with the child abuse and neglect registry check requirements in Section 471(a)(20)(C) of the Act effective October 1, 2006, unless the exception below applies.
- Exception: If the Secretary of HHS determines that State legislation is required before changes can be made to a Title IV-E State plan to comply with the amendments to Section 471 of the Act, the State will be afforded a specific time frame to comply. The statutory time frame is linked to that State's regular legislative session.

HHS to Create a National Child Abuse and Neglect Registry (Section 633)

- ✓ P.L. 109-248 requires HHS to create an electronic national registry of substantiated cases of child abuse and neglect in consultation with the Attorney General. The national registry is to contain case-specific identifying information that is limited to the name of the perpetrator and the nature of the substantiated case of child abuse and neglect.
- ✓ The data needed to maintain this national registry will be supplied to HHS by the States, Indian Tribes, or at the option of a State, by political subdivisions of the State.
- The law authorizes \$500,000 to be appropriated to HHS for Federal fiscal years 2006 and 2007 to conduct a study to address specific issues related to the creation of an electronic national registry of substantiated cases of child abuse and neglect.

Access to National Crime Information Databases (Sections 152 and 153)

- The Attorney General is now required to conduct fingerprint-based checks of the NCID for “child welfare agencies”¹ pursuant to a request submitted for the purpose of: 1) an investigation relating to child abuse or neglect; and 2) a criminal background check required under Section 471(a)(20) of the Act. The Attorney General must conduct such checks upon request from the chief executive officer of a State.
- The Attorney General shall ensure access to the NCID by governmental social service agencies with child protection responsibilities, to be used by such agencies only in investigating or responding to reports of child abuse, neglect, or exploitation. However, access to the NCID will be limited to personnel who meet security and training standards established by the Attorney General.

¹ Section 153(g)(1) and (2) of P.L. 109-248 defines child welfare agency as “the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act” and “any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the licensing or approval of foster or adoptive parents.”

EFFECTIVE

DATE:

See the section titled "Effective Dates of the Title IV-E Provisions."
Other child welfare related provisions summarized herein are effective
upon enactment, July 27, 2006.

INQUIRIES TO:

Regional Administrators, ACF Regions I-X

/s/

Joan E. Ohl
Commissioner
Administration on Children,
Youth and Families

Attachment

1 (4) perform such other functions as the Attorney
2 General may delegate.

3 **Subtitle C—Access to Information**
4 **and Resources Needed To En-**
5 **sure That Children Are Not At-**
6 **tacked or Abused**

7 **SEC. 151. ACCESS TO NATIONAL CRIME INFORMATION**
8 **DATABASES.**

42 USC 16961

9 (a) *IN GENERAL.*—Notwithstanding any other provi-
10 sion of law, the Attorney General shall ensure access to the
11 national crime information databases (as defined in section
12 534 of title 28, United States Code) by—

13 (1) *the National Center for Missing and Ex-*
14 *ploited Children, to be used only within the scope of*
15 *the Center's duties and responsibilities under Federal*
16 *law to assist or support law enforcement agencies in*
17 *administration of criminal justice functions; and*

18 (2) *governmental social service agencies with*
19 *child protection responsibilities, to be used by such*
20 *agencies only in investigating or responding to re-*
21 *ports of child abuse, neglect, or exploitation.*

22 (b) *CONDITIONS OF ACCESS.*—The access provided
23 under this section, and associated rules of dissemination,
24 shall be—

25 (1) *defined by the Attorney General; and*

1 (2) *limited to personnel of the Center or such*
 2 *agencies that have met all requirements set by the At-*
 3 *torney General, including training, certification, and*
 4 *background screening.*

5 **SEC. 152. REQUIREMENT TO COMPLETE BACKGROUND**
 6 **CHECKS BEFORE APPROVAL OF ANY FOSTER**
 7 **OR ADOPTIVE PLACEMENT AND TO CHECK**
 8 **NATIONAL CRIME INFORMATION DATABASES**
 9 **AND STATE CHILD ABUSE REGISTRIES; SUS-**
 10 **PENSION AND SUBSEQUENT ELIMINATION OF**
 11 **OPT-OUT.**

12 (a) *REQUIREMENT TO COMPLETE BACKGROUND*
 13 *CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE*
 14 *PLACEMENT AND TO CHECK NATIONAL CRIME INFORMA-*
 15 *TION DATABASES AND STATE CHILD ABUSE REGISTRIES;*
 16 *SUSPENSION OF OPT-OUT.—*

17 (1) *REQUIREMENT TO CHECK NATIONAL CRIME*
 18 *INFORMATION DATABASES AND STATE CHILD ABUSE*
 19 *REGISTRIES.—Section 471(a)(20) of the Social Secu-*
 20 *rity Act (42 U.S.C. 671(a)(20)) is amended—*

21 (A) *in subparagraph (A)—*

22 (i) *in the matter preceding clause*

23 (I)—

24 (I) *by inserting “, including fin-*
 25 *gerprint-based checks of national crime*

1 information databases (as defined in
2 section 534(e)(3)(A) of title 28, United
3 States Code),” after “criminal records
4 checks”; and

5 (II) by striking “on whose behalf
6 foster care maintenance payments or
7 adoption assistance payments are to be
8 made” and inserting “regardless of
9 whether foster care maintenance pay-
10 ments or adoption assistance payments
11 are to be made on behalf of the child”;
12 and

13 (ii) in each of clauses (i) and (ii), by
14 inserting “involving a child on whose behalf
15 such payments are to be so made” after “in
16 any case”; and

17 (B) by adding at the end the following:

18 “(C) provides that the State shall—

19 “(i) check any child abuse and neglect reg- ✓
20 istry maintained by the State for information on
21 any prospective foster or adoptive parent and on
22 any other adult living in the home of such a pro-
23 spective parent, and request any other State in ✓
24 which any such prospective parent or other adult
25 has resided in the preceding 5 years, to enable

1 the State to check any child abuse and neglect
2 registry maintained by such other State for such
3 information, before the prospective foster or
4 adoptive parent may be finally approved for
5 placement of a child, regardless of whether foster
6 care maintenance payments or adoption assist-
7 ance payments are to be made on behalf of the
8 child under the State plan under this part;

9 ✓ “(ii) comply with any request described in ✓
10 clause (i) that is received from another State;
11 and

12 “(iii) have in place safeguards to prevent
13 the unauthorized disclosure of information in ✓
14 any child abuse and neglect registry maintained
15 by the State, and to prevent any such informa-
16 tion obtained pursuant to this subparagraph ✓
17 from being used for a purpose other than the
18 conducting of background checks in foster or
19 adoptive placement cases;”.

20 (2) SUSPENSION OF OPT-OUT.—Section
21 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B))
22 is amended—

23 (A) by inserting “, on or before September
24 30, 2005,” after “plan if”; and

1 (B) by inserting “, on or before such date,”
2 after “or if”.

3 (b) *ELIMINATION OF OPT-OUT.*—Section 471(a)(20) of
4 such Act (42 U.S.C. 671(a)(20)), as amended by subsection
5 (a) of this section, is amended—

6 (1) in subparagraph (A), in the matter preceding
7 clause (i), by striking “unless an election provided for
8 in subparagraph (B) is made with respect to the
9 State,”; and

10 (2) by striking subparagraph (B) and redesignig-
11 nating subparagraph (C) as subparagraph (B).

12 (c) *EFFECTIVE DATE.*—

13 (1) *GENERAL.*—The amendments made by sub-
14 section (a) shall take effect on October 1, 2006, and
15 shall apply with respect to payments under part E of
16 title IV of the Social Security Act for calendar quar-
17 ters beginning on or after such date, without regard
18 to whether regulations to implement the amendments
19 are promulgated by such date.

20 (2) *ELIMINATION OF OPT-OUT.*—The amend-
21 ments made by subsection (b) shall take effect on Oc-
22 tober 1, 2008, and shall apply with respect to pay-
23 ments under part E of title IV of the Social Security
24 Act for calendar quarters beginning on or after such

1 date, without regard to whether regulations to imple-
2 ment the amendments are promulgated by such date.

3 (3) *DELAY PERMITTED IF STATE LEGISLATION*
4 *REQUIRED.*—If the Secretary of Health and Human
5 Services determines that State legislation (other than
6 legislation appropriating funds) is required in order
7 for a State plan under section 471 of the Social Secu-
8 rity Act to meet the additional requirements imposed
9 by the amendments made by a subsection of this sec-
10 tion, the plan shall not be regarded as failing to meet
11 any of the additional requirements before the first day
12 of the first calendar quarter beginning after the first
13 regular session of the State legislature that begins
14 after the otherwise applicable effective date of the
15 amendments. If the State has a 2-year legislative ses-
16 sion, each year of the session is deemed to be a sepa-
17 rate regular session of the State legislature.

18 **SEC. 153. SCHOOLS SAFE ACT.**

42 H6 U SC 16962

19 (a) *SHORT TITLE.*—This section may be cited as the
20 “Schools Safely Acquiring Faculty Excellence Act of 2006”.

21 (b) *IN GENERAL.*—The Attorney General of the United
22 States shall, upon request of the chief executive officer of
23 a State, conduct fingerprint-based checks of the national
24 crime information databases (as defined in section

1 534(f)(3)(A) of title 28, United States Code as redesignated
 2 under subsection (e)) pursuant to a request submitted by—

3 (1) a child welfare agency for the purpose of—

4 ✓ (A) conducting a background check required
 5 under section 471(a)(20) of the Social Security
 6 Act on individuals under consideration as pro-
 7 spective foster or adoptive parents; or

8 (B) an investigation relating to an incident
 9 of abuse or neglect of a minor; or

10 (2) a private or public elementary school, a pri-
 11 vate or public secondary school, a local educational
 12 agency, or State educational agency in that State, on
 13 individuals employed by, under consideration for em-
 14 ployment by, or otherwise in a position in which the
 15 individual would work with or around children in the
 16 school or agency.

17 (c) *FINGERPRINT-BASED CHECK*.—Where possible, the
 18 check shall include a fingerprint-based check of State crimi-
 19 nal history databases.

20 (d) *FEES*.—The Attorney General and the States may
 21 charge any applicable fees for the checks.

22 (e) *PROTECTION OF INFORMATION*.—An individual
 23 having information derived as a result of a check under
 24 subsection (b) may release that information only to appro- ✓
 25 priate officers of child welfare agencies, public or private

1 elementary or secondary schools, or educational agencies or
2 other persons authorized by law to receive that information.

3 (f) *CRIMINAL PENALTIES.*—An individual who know-
4 ingly exceeds the authority in subsection (b), or knowingly
5 releases information in violation of subsection (e), shall be
6 imprisoned not more than 10 years or fined under title 18,
7 United States Code, or both.

8 (g) *CHILD WELFARE AGENCY DEFINED.*—In this sec-
9 tion, the term “child welfare agency” means—

10 (1) the State or local agency responsible for ad-
11 ministering the plan under part B or part E of title
12 IV of the Social Security Act; and

13 (2) any other public agency, or any other private
14 agency under contract with the State or local agency
15 responsible for administering the plan under part B
16 or part E of title IV of the Social Security Act, that
17 is responsible for the licensing or approval of foster
18 or adoptive parents.

19 (h) *DEFINITION OF EDUCATION TERMS.*—In this sec-
20 tion, the terms “elementary school”, “local educational
21 agency”, “secondary school”, and “State educational agen-
22 cy” have the meanings given to those terms in section 9101
23 of the Elementary and Secondary Education Act of 1965
24 (20 U.S.C. 7801).

1 (i) *TECHNICAL CORRECTION.*—Section 534 of title 28,
2 *United States Code*, is amended by redesignating the second
3 *subsection (e) as subsection (f).*

4 **SEC. 154. MISSING CHILD REPORTING REQUIREMENTS.**

5 (a) *IN GENERAL.*—Section 3702 of the *Crime Control*
6 *Act of 1990 (42 U.S.C. 5780)* is amended—

7 (1) by redesignating paragraphs (2) and (3) as
8 paragraphs (3) and (4), respectively;

9 (2) by inserting after paragraph (1) the fol-
10 *lowing:*

11 “(2) ensure that no law enforcement agency
12 *within the State establishes or maintains any policy*
13 *that requires the removal of a missing person entry*
14 *from its State law enforcement system or the National*
15 *Crime Information Center computer database based*
16 *solely on the age of the person; and”;* and

17 (3) in paragraph (3), as redesignated, by strik-
18 *ing “immediately” and inserting “within 2 hours of*
19 *receipt”.*

20 (b) *DEFINITIONS.*—Section 403(1) of the *Comprehen-*
21 *sive Crime Control Act of 1984 (42 U.S.C. 5772)* is amend-
22 *ed by striking “if” through subparagraph (B) and inserting*
23 *a semicolon.*

- 1 (1) \$3,000,000 for fiscal year 2007;
 2 (2) \$5,000,000 for fiscal year 2008; and
 3 (3) \$8,000,000 for fiscal year 2009.

4 (d) *OTHER EXISTING APPLICABLE LAW.*—Nothing in
 5 this section shall be construed to limit any existing author-
 6 ity under any other provision of Federal or State law for
 7 law enforcement agencies to locate or apprehend fugitives
 8 through task forces or any other means.

9 **SEC. 633. NATIONAL REGISTRY OF SUBSTANTIATED CASES**
 10 **OF CHILD ABUSE.**

42 USC 16990

11 (a) *IN GENERAL.*—The Secretary of Health and
 12 Human Services, in consultation with the Attorney Gen-
 13 eral, shall create a national registry of substantiated cases
 14 of child abuse or neglect.

15 (b) *INFORMATION.*—

16 (1) *COLLECTION.*—The information in the reg-
 17 istry described in subsection (a) shall be supplied by
 18 States and Indian tribes, or, at the option of a State,
 19 by political subdivisions of such State, to the Sec-
 20 retary of Health and Human Services.

21 (2) *TYPE OF INFORMATION.*—The registry de-
 22 scribed in subsection (a) shall collect in a central elec-
 23 tronic registry information on persons reported to a
 24 State, Indian tribe, or political subdivision of a State

1 *as perpetrators of a substantiated case of child abuse*
2 *or neglect.*

3 *(c) SCOPE OF INFORMATION.—*

4 *(1) IN GENERAL.—*

5 *(A) TREATMENT OF REPORTS.—The infor-*
6 *mation to be provided to the Secretary of Health*
7 *and Human Services under this section shall re-*
8 *late to substantiated reports of child abuse or ne-*
9 *glect.*

10 *(B) EXCEPTION.—If a State, Indian tribe,*
11 *or political subdivision of a State has an elec-*
12 *tronic register of cases of child abuse or neglect*
13 *equivalent to the registry established under this*
14 *section that it maintains pursuant to a require-*
15 *ment or authorization under any other provision*
16 *of law, the information provided to the Secretary*
17 *of Health and Human Services under this sec-*
18 *tion shall be coextensive with that in such reg-*
19 *ister.*

20 *(2) FORM.—Information provided to the Sec-*
21 *retary of Health and Human Services under this*
22 *section—*

23 *(A) shall be in a standardized electronic*
24 *form determined by the Secretary of Health and*
25 *Human Services; and*

1 (B) shall contain case-specific identifying
2 information that is limited to the name of the ✓
3 perpetrator and the nature of the substantiated ✓
4 case of child abuse or neglect, and that complies
5 with clauses (viii) and (ix) of section
6 106(b)(2)(A) of the Child Abuse Prevention and
7 Treatment Act (42 U.S.C. 5106(b)(2)(A) (viii)
8 and (ix)).

9 (d) CONSTRUCTION.—This section shall not be con-
10 strued to require a State, Indian tribe, or political subdivi-
11 sion of a State to modify—

12 (1) an equivalent register of cases of child abuse
13 or neglect that it maintains pursuant to a require-
14 ment or authorization under any other provision of
15 law; or

16 (2) any other record relating to child abuse or
17 neglect, regardless of whether the report of abuse or
18 neglect was substantiated, unsubstantiated, or deter-
19 mined to be unfounded.

20 (e) ACCESSIBILITY.—Information contained in the na-
21 tional registry shall only be accessible to any Federal, State,
22 Indian tribe, or local government entity, or any agent of
23 such entities, that has a need for such information in order
24 to carry out its responsibilities under law to protect chil-
25 dren from child abuse and neglect.

1 (f) *DISSEMINATION.*—*The Secretary of Health and*
2 *Human Services shall establish standards for the dissemi-*
3 *nation of information in the national registry of substan-*
4 *tiated cases of child abuse or neglect. Such standards shall*
5 *comply with clauses (viii) and (ix) of section 106(b)(2)(A)*
6 *of the Child Abuse Prevention and Treatment Act (42*
7 *U.S.C. 5106(b)(2)(A) (viii) and (ix)).*

8 (g) *STUDY.*—

9 (1) *IN GENERAL.*—*The Secretary of Health and*
10 *Human Services shall conduct a study on the feasi-*
11 *bility of establishing data collection standards for a*
12 *national child abuse and neglect registry with rec-*
13 *ommendations and findings concerning—*

14 (A) *costs and benefits of such data collection*
15 *standards;*

16 (B) *data collection standards currently em-*
17 *ployed by each State, Indian tribe, or political*
18 *subdivision of a State;*

19 (C) *data collection standards that should be*
20 *considered to establish a model of promising*
21 *practices; and*

22 (D) *a due process procedure for a national*
23 *registry*

24 (2) *REPORT.*—*Not later than 1 year after the*
25 *date of enactment of this Act, the Secretary of Home-*

1 *land Security shall submit to the Committees on the*
2 *Judiciary in the House of Representatives and the*
3 *United States Senate and the Senate Committee on*
4 *Health, Education, Labor and Pensions and the*
5 *House Committee on Education and the Workforce a*
6 *report containing the recommendations and findings*
7 *of the study on data collection standards for a na-*
8 *tional child abuse registry authorized under this sub-*
9 *section.*

10 (3) *AUTHORIZATION OF APPROPRIATIONS.—*

11 *There is authorized to be appropriated \$500,000 for*
12 *the period of fiscal years 2006 and 2007 to carry out*
13 *the study required by this subsection.*

14 **SEC. 634. COMPREHENSIVE EXAMINATION OF SEX OF-**
15 **FENDER ISSUES.**

16 (a) *IN GENERAL.—The National Institute of Justice*
17 *shall conduct a comprehensive study to examine the control,*
18 *prosecution, treatment, and monitoring of sex offenders,*
19 *with a particular focus on—*

20 (1) *the effectiveness of the Sex Offender Registra-*
21 *tion and Notification Act in increasing compliance*
22 *with sex offender registration and notification re-*
23 *quirements, and the costs and burdens associated with*
24 *such compliance;*

including fingerprint-based checks of national crime
info via FBI database as defined in 21 USC § 34 (3)(A),
GRANTS FOR DEPENDENT CHILDREN

e, if the offense had oc-
urisdiction of the United

ich would have been an
nited States Code, if the
or territorial jurisdiction

parent;
, or solicited to commit
ghter; or

in serious bodily injury
or
ng have been terminated

ubparagraph (B) are not
ination made by a court
aragraph (D)—

on 475(5)(C) [42 USCS
30 days after the deter-

e child in a timely man-
id to complete whatever
placement of the child;

n or with a legal guard-
le efforts of the type

efined in section 475(1)
care maintenance pay-
review system which
475(5)(B) [42 USCS

be taken, including con-
ng the program funded
royed under part D [42
e State of any rights to
maintenance payments

ither the State nor any
ie Federal Government
may—

an adoptive or a foster
origin of the person, or

tion or into foster care,
f the adoptive or foster

(19) provides that the State shall consider giving preference to an adult re-
lative over a non-related caregiver when determining a placement for a child,
provided that the relative caregiver meets all relevant State child protection
standards;

(20)(A) unless an election provided for in subparagraph (B) is made with
respect to the State, provides procedures for criminal records checks for
any prospective foster or adoptive parent before the foster or adoptive
parent may be finally approved for placement of a child on whose behalf
foster care maintenance payments or adoption assistance payments are to
be made under the State plan under this part [42 USCS §§ 670 et seq.],
including procedures requiring that—

on behalf
of the child

regard
of
whether

Involving a
child on
whose behalf
such payments
are to be so
made

(i) in any case in which a record check reveals a felony conviction for
child abuse or neglect, for spousal abuse, for a crime against children
(including child pornography), or for a crime involving violence,
including rape, sexual assault, or homicide, but not including other
physical assault or battery, if a State finds that a court of competent
jurisdiction has determined that the felony was committed at any time,
such final approval shall not be granted; and

(ii) in any case in which a record check reveals a felony conviction for
physical assault, battery, or a drug-related offense, if a State finds that
a court of competent jurisdiction has determined that the felony was
committed within the past 5 years, such final approval shall not be
granted; and

(B) subparagraph (A) shall not apply to a State plan if the Governor of
the State has notified the Secretary in writing that the State has elected to
make subparagraph (A) inapplicable to the State, or if the State legislature,
by law, has elected to make subparagraph (A) inapplicable to the State;

C

(21) provides for health insurance coverage (including, at State option,
through the program under the State plan approved under title XIX [42
USCS §§ 1396 et seq.] for any child who has been determined to be a child
with special needs, for whom there is in effect an adoption assistance agree-
ment (other than an agreement under this part [42 USCS §§ 670 et seq.])
between the State and an adoptive parent or parents, and who the State has
determined cannot be placed with an adoptive parent or parents without
medical assistance because such child has special needs for medical, mental
health, or rehabilitative care, and that with respect to the provision of such
health insurance coverage—

(A) such coverage may be provided through 1 or more State medical as-
sistance programs;

(B) the State, in providing such coverage, shall ensure that the medical
benefits, including mental health benefits, provided are of the same type
and kind as those that would be provided for children by the State under
title XIX [42 USCS §§ 1396 et seq.];

(C) in the event that the State provides such coverage through a State
medical assistance program other than the program under title XIX [42
USCS §§ 1396 et seq.], and the State exceeds its funding for services

stration" preceding "projects under" and "In the case of" shall be deleted.

of prevention and treatment programs shall make grants to the States, based on a plan that applies for a grant under this section a child protective services system of each State, including—

(1) the planning, development, and implementation of child protective services and treatment, and delivery of services and treatment; and

(2) the development, planning, and implementation of child protective services and treatment, and delivery of services and treatment, including—

(A) promoting collaboration with the families, individuals, and organizations providing services to individuals, through the child protection system; and

(B) promoting the retention of caseworkers; and

(3) individuals mandated to report child abuse or neglect, including—

(A) individuals for training for individuals mandated to report child abuse or neglect; and

(B) individuals to assist in obtaining or coordinating services for individuals in life-threatening conditions, including—

(i) individuals who are the subject of the report; and

(ii) individuals who are the subject of the report; and

(4) public education relating to the role and nature and basis for reporting suspected child abuse or neglect; and

(5) community-based programs to integrate shared information to prevent and treat child abuse and neglect; and

(6) coordination between the child protection system and other State agencies, including—

(A) State health agencies, the child protection system, and other State agencies providing child abuse and neglect prevention and treatment services; and

(B) State health agencies, the child protection system, and other State agencies providing child abuse and neglect prevention and treatment services; and

(7) the initial grant application under this section; and

(8) the law relating to the prevention of child abuse or neglect; and

(9) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(10) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(11) the activities as described in the current law relating to the prevention of child abuse or neglect; and

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(84) the activities as described in the current law relating to the prevention of child abuse or neglect; and

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(92) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(93) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(94) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(95) the activities as described in the current law relating to the prevention of child abuse or neglect; and

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(97) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(98) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(99) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(100) the activities as described in the current law relating to the prevention of child abuse or neglect; and

(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

(II) to make recommendations to the court concerning the best interests of the child;

(xiv) the establishment of citizen review panels in accordance with subsection (c);

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