

109TH CONGRESS
2^D SESSION

H. R. 5403

To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2006

Mr. DELAY (for himself, Mr. HERGER, Mr. STARK, Mr. CAMP, Ms. NORTON, Ms. HART, Mr. CARDOZA, and Mr. ENGLISH of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Timely Inter-
5 state Placement of Foster Children Act of 2006”.

6 **SEC. 2. SENSE OF THE CONGRESS.**

7 It is the sense of the Congress that—

1 (1) the States should expeditiously ratify the re-
2 vised Interstate Compact for the Placement of Chil-
3 dren recently promulgated by the American Public
4 Human Services Association;

5 (2) this Act and the revised Interstate Compact
6 for the Placement of Children should not apply to
7 those seeking placement in a licensed residential fa-
8 cility primarily to access clinical mental health serv-
9 ices;

10 (3) the States should recognize and implement
11 the deadlines for the completion and approval of
12 home studies as provided in section 4 to move chil-
13 dren more quickly into safe, permanent homes; and

14 (4) Federal policy should encourage the safe
15 and expedited placement of children into safe, per-
16 manent homes across State lines.

17 **SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE**
18 **PLACEMENT OF CHILDREN.**

19 Section 471(a) of the Social Security Act (42 U.S.C.
20 671(a)) is amended—

21 (1) by striking “and” at the end of paragraph
22 (23);

23 (2) by striking the period at the end of para-
24 graph (24) and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(25) provide that the State shall have in effect
2 procedures for the orderly and timely interstate
3 placement of children; and procedures implemented
4 in accordance with an interstate compact, if incor-
5 porating with the procedures prescribed by para-
6 graph (26), shall be considered to satisfy the re-
7 quirement of this paragraph.”.

8 **SEC. 4. HOME STUDIES.**

9 (a) ORDERLY PROCESS.—

10 (1) IN GENERAL.—Section 471(a) of the Social
11 Security Act (42 U.S.C. 671(a)) is further amend-
12 ed—

13 (A) by striking “and” at the end of para-
14 graph (24);

15 (B) by striking the period at the end of
16 paragraph (25) and inserting “; and”; and

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

18 “(26) provides that—

19 “(A)(i) within 60 days after the State re-
20 ceives from another State a request to conduct
21 a study of a home environment for purposes of
22 assessing the safety and suitability of placing a
23 child in the home, the State shall, directly or by
24 contract—

1 “(I) conduct and complete the study;
2 and

3 “(II) return to the other State a re-
4 port on the results of the study, which
5 shall address the extent to which place-
6 ment in the home would meet the needs of
7 the child; and

8 “(ii) in the case of a home study begun on
9 or before September 30, 2008, if the State fails
10 to comply with clause (i) within the 60-day pe-
11 riod as a result of circumstances beyond the
12 control of the State (such as a failure by a Fed-
13 eral agency to provide the results of a back-
14 ground check, or the failure by any entity to
15 provide completed medical forms, requested by
16 the State at least 45 days before the end of the
17 60-day period), the State shall have 75 days to
18 comply with clause (i) if the State documents
19 the circumstances involved and certifies that
20 completing the home study is in the best inter-
21 ests of the child; except that

22 “(iii) this subparagraph shall not be con-
23 strued to require the State to have completed,
24 within the applicable period, the parts of the
25 home study involving the education and train-

1 ing of the prospective foster or adoptive par-
2 ents;

3 “(B) the State shall treat any report de-
4 scribed in subparagraph (A) that is received
5 from another State or an Indian tribe (or from
6 a private agency under contract with another
7 State) as meeting any requirements imposed by
8 the State for the completion of a home study
9 before placing a child in the home, unless, with-
10 in 14 days after receipt of the report, the State
11 determines, based on grounds that are specific
12 to the content of the report, that making a de-
13 cision in reliance on the report would be con-
14 trary to the welfare of the child; and

15 “(C) the State shall not impose any re-
16 striction on the ability of a State agency admin-
17 istering, or supervising the administration of, a
18 State program operated under a State plan ap-
19 proved under this part to contract with a pri-
20 vate agency for the conduct of a home study de-
21 scribed in subparagraph (A).”.

22 (2) REPORT TO THE CONGRESS.—Within 12
23 months after the date of the enactment of this Act,
24 the Secretary of Health and Human Services shall
25 submit to the Committee on Ways and Means of the

1 House of Representatives and the Committee on Fi-
2 nance of the Senate a written report on—

3 (A) how frequently States need the ex-
4 tended 75-day period provided for in clause (ii)
5 of section 471(a)(26)(A) of the Social Security
6 Act in order to comply with clause (i) of such
7 section;

8 (B) the reasons given for utilizing the ex-
9 tended compliance period;

10 (C) the extent to which utilizing the ex-
11 tended compliance period leads to the resolution
12 of the circumstances beyond the control of the
13 State; and

14 (D) the actions taken by States and any
15 relevant Federal agencies to resolve the need
16 for the extended compliance period.

17 (3) SENSE OF THE CONGRESS.—It is the sense
18 of the Congress that each State should—

19 (A) use private agencies to conduct home
20 studies when doing so is necessary to meet the
21 requirements of section 471(a)(26) of the Social
22 Security Act; and

23 (B) give full faith and credit to any home
24 study report completed by any other State or

1 an Indian tribe with respect to the placement of
2 a child in foster care or for adoption.

3 (b) **TIMELY INTERSTATE HOME STUDY INCENTIVE**
4 **PAYMENTS.**—Part E of title IV of the Social Security Act
5 (42 U.S.C. 670–679b) is amended by inserting after sec-
6 tion 473A the following:

7 **“SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE**
8 **PAYMENTS.**

9 “(a) **GRANT AUTHORITY.**—The Secretary shall make
10 a grant to each State that is a home study incentive-eli-
11 gible State for a fiscal year in an amount equal to the timely
12 interstate home study incentive payment payable to the
13 State under this section for the fiscal year, which shall
14 be payable in the immediately succeeding fiscal year.

15 “(b) **HOME STUDY INCENTIVE-ELIGIBLE STATE.**—
16 A State is a home study incentive-eligible State for a fiscal
17 year if—

18 “(1) the State has a plan approved under this
19 part for the fiscal year;

20 “(2) the State is in compliance with subsection
21 (c) for the fiscal year; and

22 “(3) based on data submitted and verified pur-
23 suant to subsection (c), the State has completed a
24 timely interstate home study during the fiscal year.

25 “(c) **DATA REQUIREMENTS.**—

1 “(1) IN GENERAL.—A State is in compliance
2 with this subsection for a fiscal year if the State has
3 provided to the Secretary a written report, covering
4 the preceding fiscal year, that specifies—

5 “(A) the total number of interstate home
6 studies requested by the State with respect to
7 children in foster care under the responsibility
8 of the State, and with respect to each such
9 study, the identity of the other State involved;

10 “(B) the total number of timely interstate
11 home studies completed by the State with re-
12 spect to children in foster care under the re-
13 sponsibility of other States, and with respect to
14 each such study, the identity of the other State
15 involved; and

16 “(C) such other information as the Sec-
17 retary may require in order to determine wheth-
18 er the State is a home study incentive-eligible
19 State.

20 “(2) VERIFICATION OF DATA.—In determining
21 the number of timely interstate home studies to be
22 attributed to a State under this section, the Sec-
23 retary shall check the data provided by the State
24 under paragraph (1) against complementary data so
25 provided by other States.

1 “(d) TIMELY INTERSTATE HOME STUDY INCENTIVE
2 PAYMENTS.—

3 “(1) IN GENERAL.—The timely interstate home
4 study incentive payment payable to a State for a fis-
5 cal year shall be \$1,500, multiplied by the number
6 of timely interstate home studies attributed to the
7 State under this section during the fiscal year, sub-
8 ject to paragraph (2).

9 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
10 FUNDS AVAILABLE.—If the total amount of timely
11 interstate home study incentive payments otherwise
12 payable under this section for a fiscal year exceeds
13 the total of the amounts made available pursuant to
14 subsection (h) for the fiscal year (reduced (but not
15 below zero) by the total of the amounts (if any) pay-
16 able under paragraph (3) of this subsection with re-
17 spect to the preceding fiscal year), the amount of
18 each such otherwise payable incentive payment shall
19 be reduced by a percentage equal to—

20 “(A) the total of the amounts so made
21 available (as so reduced); divided by

22 “(B) the total of such otherwise payable
23 incentive payments.

24 “(3) APPROPRIATIONS AVAILABLE FOR UNPAID
25 INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

1 “(A) IN GENERAL.—If payments under
2 this section are reduced under paragraph (2) or
3 subparagraph (B) of this paragraph for a fiscal
4 year, then, before making any other payment
5 under this section for the next fiscal year, the
6 Secretary shall pay each State whose payment
7 was so reduced an amount equal to the total
8 amount of the reductions which applied to the
9 State, subject to subparagraph (B) of this para-
10 graph.

11 “(B) PRO RATA ADJUSTMENT IF INSUFFI-
12 CIENT FUNDS AVAILABLE.—If the total amount
13 of payments otherwise payable under subpara-
14 graph (A) of this paragraph for a fiscal year ex-
15 ceeds the total of the amounts made available
16 pursuant to subsection (h) for the fiscal year,
17 the amount of each such payment shall be re-
18 duced by a percentage equal to—

19 “(i) the total of the amounts so made
20 available; divided by

21 “(ii) the total of such otherwise pay-
22 able payments.

23 “(e) TWO-YEAR AVAILABILITY OF INCENTIVE PAY-
24 MENTS.—Payments to a State under this section in a fis-

1 cal year shall remain available for use by the State
2 through the end of the next fiscal year.

3 “(f) LIMITATIONS ON USE OF INCENTIVE PAY-
4 MENTS.—A State shall not expend an amount paid to the
5 State under this section except to provide to children or
6 families any service (including post-adoption services) that
7 may be provided under part B or E. Amounts expended
8 by a State in accordance with the preceding sentence shall
9 be disregarded in determining State expenditures for pur-
10 poses of Federal matching payments under sections 423,
11 434, and 474.

12 “(g) DEFINITIONS.—In this section:

13 “(1) HOME STUDY.—The term ‘home study’
14 means an evaluation of a home environment con-
15 ducted in accordance with applicable requirements of
16 the State in which the home is located, to determine
17 whether a proposed placement of a child would meet
18 the individual needs of the child, including the
19 child’s safety, permanency, health, well-being, and
20 mental, emotional, and physical development.

21 “(2) INTERSTATE HOME STUDY.—The term
22 ‘interstate home study’ means a home study con-
23 ducted by a State at the request of another State,
24 to facilitate an adoptive or foster placement in the

1 State of a child in foster care under the responsi-
2 bility of the State.

3 “(3) TIMELY INTERSTATE HOME STUDY.—The
4 term ‘timely interstate home study’ means an inter-
5 state home study completed by a State if the State
6 provides to the State that requested the study, with-
7 in 30 days after receipt of the request, a report on
8 the results of the study. The preceding sentence
9 shall not be construed to require the State to have
10 completed, within the 30-day period, the parts of the
11 home study involving the education and training of
12 the prospective foster or adoptive parents.

13 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
14 PRIATIONS.—

15 “(1) IN GENERAL.—For payments under this
16 section, there are authorized to be appropriated to
17 the Secretary—

18 “(A) \$10,000,000 for fiscal year 2007;

19 “(B) \$10,000,000 for fiscal year 2008;

20 “(C) \$10,000,000 for fiscal year 2009; and

21 “(D) \$10,000,000 for fiscal year 2010.

22 “(2) AVAILABILITY.—Amounts appropriated
23 under paragraph (1) are authorized to remain avail-
24 able until expended.”.

1 (c) REPEALER.—Effective October 1, 2010, section
2 473B of the Social Security Act is repealed.

3 **SEC. 5. SENSE OF THE CONGRESS.**

4 It is the sense of the Congress that State agencies
5 should fully cooperate with any court which has authority
6 with respect to the placement of a child in foster care or
7 for adoption, for the purpose of locating a parent of the
8 child, and such cooperation should include making avail-
9 able all information obtained from the Federal Parent Lo-
10 cator Service.

11 **SEC. 6. CASEWORKER VISITS.**

12 (a) PURCHASE OF SERVICES IN INTERSTATE PLACE-
13 MENT CASES.—Section 475(5)(A)(ii) of the Social Secu-
14 rity Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
15 “or of the State in which the child has been placed” and
16 inserting “of the State in which the child has been placed,
17 or of a private agency under contract with either such
18 State”.

19 (b) INCREASED VISITS.—Section 475(5)(A)(ii) of
20 such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking
21 “12” and inserting “6”.

22 **SEC. 7. HEALTH AND EDUCATION RECORDS.**

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

25 (1) in paragraph (1)(C)—

1 (A) by striking “To the extent available
2 and accessible, the” and inserting “The”; and

3 (B) by inserting “the most recent informa-
4 tion available regarding” after “including”; and
5 (2) in paragraph (5)(D)—

6 (A) by inserting “a copy of the record is”
7 before “supplied”; and

8 (B) by inserting “, and is supplied to the
9 child at no cost at the time the child leaves fos-
10 ter care if the child is leaving foster care by
11 reason of having attained the age of majority
12 under State law” before the semicolon.

13 **SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PRO-**
14 **CEEDINGS.**

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

17 (1) by striking “an opportunity” and inserting
18 “a right”;

19 (2) by striking “and opportunity” and inserting
20 “and right”; and

21 (3) by striking “review or hearing” each place
22 it appears and inserting “proceeding”.

23 (b) NOTICE OF PROCEEDING.—Section 438(b) of
24 such Act (42 U.S.C. 638(b)) is amended by inserting
25 “shall have in effect a rule requiring State courts to en-

1 sure that foster parents, pre-adoptive parents, and relative
2 caregivers of a child in foster care under the responsibility
3 of the State are notified of any proceeding to be held with
4 respect to the child, and” after “highest State court”.

5 **SEC. 9. COURT IMPROVEMENT.**

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

8 (1) by striking “and” at the end of subpara-
9 graph (C); and

10 (2) by adding at the end the following:

11 “(E) that determine the best strategy to
12 use to expedite the interstate placement of chil-
13 dren, including—

14 “(i) requiring courts in different
15 States to cooperate in the sharing of infor-
16 mation;

17 “(ii) authorizing courts to obtain in-
18 formation and testimony from agencies
19 and parties in other States without requir-
20 ing interstate travel by the agencies and
21 parties; and

22 “(iii) permitting the participation of
23 parents, children, other necessary parties,
24 and attorneys in cases involving interstate

1 placement without requiring their inter-
2 state travel; and”.

3 **SEC. 10. REASONABLE EFFORTS.**

4 (a) IN GENERAL.—Section 471(a)(15)(C) of the So-
5 cial Security Act (42 U.S.C. 671(a)(15)(C)) is amended
6 by inserting “(including, if appropriate, through an inter-
7 state placement)” after “accordance with the permanency
8 plan”.

9 (b) PERMANENCY HEARING.—Section
10 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i))
11 is amended by inserting “, which considers in-State and
12 out-of-State permanent placement options for the child,”
13 before “shall”.

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

18 **SEC. 11. CASE PLANS.**

19 Section 475(1)(E) of the Social Security Act (42
20 U.S.C. 675(1)(E)) is amended by inserting “to facilitate
21 orderly and timely in-State and interstate placements” be-
22 fore the period.

23 **SEC. 12. CASE REVIEW SYSTEM.**

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

1 (1) by inserting “, in the case of a child who
2 will not be returned to the parent, the hearing shall
3 consider in-State and out-of-State placement op-
4 tions,” after “living arrangement”; and

5 (2) by inserting “the hearing shall determine”
6 before “whether the”.

7 **SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.**

8 Section 422(b)(12) of the Social Security Act (42
9 U.S.C. 622(b)(12)) is amended—

10 (1) by striking “develop plans for the” and in-
11 sserting “make”;

12 (2) by inserting “(including through contracts
13 for the purchase of services)” after “resources”; and

14 (3) by inserting “, and shall eliminate legal bar-
15 riers,” before “to facilitate”.

16 **SEC. 14. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Except as otherwise provided in
18 this section, the amendments made by this Act shall take
19 effect on October 1, 2006, and shall apply to payments
20 under parts B and E of title IV of the Social Security
21 Act for calendar quarters beginning on or after such date,
22 without regard to whether regulations to implement the
23 amendments are promulgated by such date.

24 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
25 QUIRED.—If the Secretary of Health and Human Services

1 determines that State legislation (other than legislation
2 appropriating funds) is required in order for a State plan
3 under part B or E of title IV of the Social Security Act
4 to meet the additional requirements imposed by the
5 amendments made by a provision of this Act, the plan
6 shall not be regarded as failing to meet any of the addi-
7 tional requirements before the 1st day of the 1st calendar
8 quarter beginning after the first regular session of the
9 State legislature that begins after the date of the enact-
10 ment of this Act. If the State has a 2-year legislative ses-
11 sion, each year of the session is deemed to be a separate
12 regular session of the State legislature.

○