

109TH CONGRESS
2^D SESSION

H. R. 5436

To improve foster care court capacity through loan forgiveness and performance measurement.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2006

Mr. SCHIFF (for himself and Ms. HART) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce and Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve foster care court capacity through loan forgiveness and performance measurement.

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 “Fostering Our Future
5 Act of 2006”.

1 **SEC. 2. IMPROVEMENTS TO COURTS.**

2 (a) IN GENERAL.—Section 13712(b) of the Omnibus
3 Budget Reconciliation Act of 1993 (42 U.S.C. 629b) is
4 amended to read as follows:

5 “(b) ELIGIBILITY.—In order to be eligible for a grant
6 under this section:

7 “(1) APPLICATION.—A highest State court
8 shall submit to the Secretary an application at such
9 time, in such form, and including such information
10 and assurances as the Secretary shall require.

11 “(2) MEASURES OF COURT PERFORMANCE.—
12 There shall be in effect in the State such laws and
13 procedures as are necessary to ensure that the
14 courts of the State measure the following with re-
15 spect to children under the jurisdiction of the courts:

16 “(A) The percentage of children who do
17 not have a subsequent petition of maltreatment
18 filed in court after the initial such petition is
19 filed.

20 “(B) The percentage of children who are
21 the subject of additional allegations of maltreat-
22 ment within 12 months after the original peti-
23 tion was closed.

24 “(C) The percentages of children who
25 reach legal permanency within 6 months after
26 removal, within 12 months thereafter, within 18

1 months thereafter, and within 24 months there-
2 after.

3 “(D) The percentage of children who do
4 not reach permanency in the foster care system.

5 “(E) The percentages of children who re-
6 enter foster care pursuant to court order within
7 12 months after being returned to their fami-
8 lies, and within 24 months thereafter.

9 “(F) The percentages of children who re-
10 turn to foster care pursuant to court order
11 within 12 months after being adopted or placed
12 with an individual or couple who are permanent
13 guardians, and within 24 months thereafter.

14 “(G) The percentages of children who are
15 transferred among 1, 2, 3, or more placements
16 while under court jurisdiction, distinguishing,
17 where possible, between placements in and out
18 of a child’s own home from multiple placements
19 in a variety of environments.

20 “(H) The percentage of cases in which
21 both parents receive written service of process
22 within the required time standards or where no-
23 tice of hearing has been waived by parties.

24 “(I) The percentage of cases in which
25 there is documentation that timely and proper

1 notice is given to parties in advance of the next
2 hearing.

3 “(J) The percentage of cases in which chil-
4 dren who have attained 10 years of age receive
5 notice of the legal proceedings in their depend-
6 ency case; the percentage of cases in which chil-
7 dren who have attained 10 years of age are
8 present in court and afforded an opportunity to
9 be heard in their own cases; and the percentage
10 of cases in which children have legal representa-
11 tion.

12 “(K) The percentage of cases in which the
13 court reviews case plans within established time
14 guidelines.

15 “(L) The percentage of children receiving
16 legal counsel, guardians ad litem, or court-ap-
17 pointed special advocates before the preliminary
18 protective hearing or equivalent, with separate
19 measures of the percentages of each type of
20 representation and of whether the representa-
21 tion was received within established time guide-
22 lines, within 5 days after the adoption petition
23 is filed, within 6 through 10 days after the fil-
24 ing, and within more than 10 days after the fil-
25 ing.

1 “(M) The percentage of cases in which
2 counsel for parents are appointed before the
3 preliminary protective hearing or equivalent,
4 with separate measures of the percentages in
5 which such appointments are made within es-
6 tablished time guidelines, within 5 days after
7 the adoption petition is filed, within 6 through
8 10 days after the filing, and within more than
9 10 days after the filing.

10 “(N) The percentage of cases in which
11 legal counsel for children is appointed on or be-
12 fore the first court appearance, and the per-
13 centage of cases in which legal counsel for chil-
14 dren changes, and the number of changes in-
15 volved.

16 “(O) The percentage of cases in which
17 legal counsel for parents changes, and the num-
18 ber of changes involved.

19 “(P) The percentage of cases in which
20 legal counsel for parents, children, and agencies
21 are present at each hearing.

22 “(Q) The percentages of children for whom
23 all hearings are heard by 1 or more judicial of-
24 ficers, and the number of judicial officers hear-
25 ing the case.

1 “(R) The average and median times from
2 filing the original petition to adjudication.

3 “(S) The average and median times from
4 filing the original petition to disposition.

5 “(T) The percentages of cases that are ad-
6 judicated within 30 days after the filing of the
7 dependency petition, within 60 days thereafter,
8 and within 90 days thereafter.

9 “(U) The percentages of cases that receive
10 a disposition within 10 days after the depend-
11 ency adjudication, within 30 days thereafter,
12 and within 90 days thereafter.

13 “(V) The percentage of cases where chil-
14 dren are successfully served in the home and
15 not detained; the average and median times to
16 reunification; and the percentage of cases where
17 children are not successfully reunified.

18 “(W) The average and median times from
19 the filing of the original petition to permanent
20 placement.

21 “(X) The average and median times from
22 the filing of the original petition to finalized
23 termination of parental rights.

24 “(Y) The percentages of cases for which
25 the termination petition is filed within 3 months

1 after the dependency disposition, within 6
2 months thereafter, within 12 months thereafter,
3 and within 18 months thereafter.

4 “(Z) The percentage of cases that receive
5 a termination order within 30 days after the fil-
6 ing of the termination petition, within 90 days
7 thereafter, within 120 days thereafter, and
8 within 180 days thereafter.

9 “(AA) The percentages of cases for which
10 an adoption petition is filed within 1 month
11 after the termination order, within 3 months
12 thereafter, and within 6 months thereafter.

13 “(BB) The percentages of cases for which
14 the adoption is finalized within 1 month after
15 the adoption petition is filed, within 3 months
16 thereafter, within 6 months thereafter, and
17 within 12 months thereafter.

18 “(CC) The percentage of hearings (by
19 hearing type) not completed within timeframes
20 set forth in statute or court rules, including,
21 where possible, the reason for noncompletion.”.

22 (b) STUDENT LOAN REPAYMENT FOR FAMILY LAW,
23 DEPENDENCY, AND DOMESTIC RELATIONS ATTOR-
24 NEYS.—

1 (1) IN GENERAL.—The Higher Education Act
2 of 1965 is amended by inserting after section 428K
3 (20 U.S.C. 1078–11) the following new section:

4 **“SEC. 428L. LOAN FORGIVENESS FOR FAMILY LAW, DE-**
5 **PENDENCY, AND DOMESTIC RELATIONS AT-**
6 **TORNEYS.**

7 “(a) PURPOSE.—The purpose of this section is to en-
8 courage qualified individuals to enter and continue em-
9 ployment as family law, dependency, and domestic rela-
10 tions attorneys.

11 “(b) LOAN FORGIVENESS.—

12 “(1) LOAN FORGIVENESS AUTHORIZED.—The
13 Secretary is authorized to forgive, in accordance
14 with this section and the agreement described in
15 subsection (e), the student loan debt of an eligible
16 borrower in the amount specified in subsection (d)
17 and for the period specified in such agreement.

18 “(2) METHOD OF LOAN FORGIVENESS.—To
19 provide the loan forgiveness authorized in paragraph
20 (1), the Secretary is authorized to carry out a pro-
21 gram—

22 “(A) through the holder of the loan, to as-
23 sume the obligation to repay a qualified loan
24 amount for a loan made under part B of this
25 title; and

1 “(B) to cancel a qualified loan amount for
2 a loan made under part D of this title.

3 “(c) ELIGIBLE BORROWER.—The Secretary is au-
4 thORIZED to provided loan forgiveness under this section to
5 any individual who—

6 “(1) is employed full-time as a family law, de-
7 pendency, or domestic relations attorney; and

8 “(2) is not in default on a loan for which the
9 borrower seeks forgiveness.

10 “(d) LOAN FORGIVENESS AMOUNT.—The Secretary
11 may, from funds appropriated under subsection (l), forgive
12 the loan obligation of an eligible borrower in accordance
13 with such terms, limitations, and conditions as may be
14 mutually agreed upon by such borrower and the Secretary
15 in the agreement described in subsection (e), except that
16 the amount paid by the Secretary under this section shall
17 not exceed—

18 “(1) \$6,000 in any calendar year for any bor-
19 rower; or

20 “(2) \$50,000 in the aggregate for any bor-
21 rower.

22 “(e) LOAN FORGIVENESS AGREEMENT.—

23 “(1) TERMS OF AGREEMENT.—The Secretary
24 shall not provide loan forgiveness to an eligible bor-

1 rower unless the borrower enters into a written
2 agreement with the Secretary which provides that—

3 “(A) the borrower shall remain employed
4 full-time as a family law, dependency, or domes-
5 tic relations attorney for a period of service
6 specified in the agreement (but not less than 3
7 years), unless involuntarily separated from that
8 employment;

9 “(B) if the borrower is involuntarily sepa-
10 rated from the employment described in sub-
11 paragraph (A) on account of misconduct, or vol-
12 untarily separates from that employment, be-
13 fore the end of the period specified in the agree-
14 ment, the borrower shall repay the Secretary
15 the amount of any benefits received by such
16 borrower under this section;

17 “(C) if the borrower is required to repay
18 an amount to the Secretary under subpara-
19 graph (B) and fails to repay such amount, a
20 sum equal to such amount shall be recoverable
21 by the Government from the borrower (or such
22 borrower’s estate, if applicable) by such method
23 as is provided by law for the recovery of
24 amounts owing to the Government;

1 “(D) the Secretary may waive, in whole or
2 in part, a right of recovery under this sub-
3 section if it is shown that recovery would be
4 against equity and good conscience or against
5 the public interest; and

6 “(E) the Secretary shall provide loan for-
7 giveness under this section for the period of the
8 agreement, subject to the availability of appro-
9 priations.

10 “(2) AGREEMENT RENEWAL.—Upon completion
11 by an eligible borrower of the period of service re-
12 quired under the agreement described in paragraph
13 (1), the Secretary may renew such agreement with
14 the eligible borrower for a successive period of serv-
15 ice to be specified in the renewed agreement (which
16 may be less than 3 years).

17 “(f) REPAYMENTS BY BORROWERS.—Any amount re-
18 paid by, or recovered from, a borrower (or a borrower’s
19 estate) under subsection (e)(1)(B) shall be credited to the
20 appropriation account from which the loan forgiveness
21 amount involved was originally paid. Any amount so cred-
22 ited shall be merged with other sums in such account and
23 shall be available for the same purposes and period, and
24 subject to the same limitations (if any), as the sums with
25 which the amount was merged.

1 “(g) APPLICATION FOR LOAN FORGIVENESS.—An el-
2 igible borrower desiring loan forgiveness under this section
3 shall submit a complete and accurate application to the
4 Secretary at such time, in such manner, and containing
5 such information as the Secretary may require.

6 “(h) PRIORITY.—The Secretary shall provide loan
7 forgiveness under this section on a first-come, first-served
8 basis, and subject to the availability of appropriations.

9 “(i) REGULATIONS.—The Secretary is authorized to
10 issue such regulations as may be necessary to carry out
11 the provisions of this section.

12 “(j) CONSTRUCTION.—Nothing in this section shall
13 be construed to authorize the refunding of any repayment
14 of any loan made by a borrower prior to the date on which
15 the Secretary entered into an agreement with the borrower
16 under subsection (e).

17 “(k) DEFINITION.—In this section the term ‘family
18 law, dependency, or domestic relations attorney’ means an
19 attorney who works in the field of family law, dependency,
20 or domestic relations, including juvenile justice, truancy,
21 child abuse or neglect, adoption, domestic relations, child
22 support, paternity, and other areas which fall under the
23 field of family law, dependency, or domestic relations law
24 as determined by State law.

1 “(1) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$20,000,000 for fiscal year 2007 and such sums as may
4 be necessary for each of the 5 succeeding fiscal years.”.

5 (2) CANCELLATION OF LOANS.—

6 (A) AMENDMENT.—Section 465(a)(2)(F)
7 of the Higher Education Act of 1965 (20
8 U.S.C. 1087ee(a)(2)(F)) is amended by insert-
9 ing “, or as a full-time family law, dependency,
10 or domestic relations attorney (as defined in
11 section 428L)” after “agencies”.

12 (B) EFFECTIVE DATE.—The amendment
13 made by this paragraph shall apply to—

14 (i) eligible loans made before, on, or
15 after the date of enactment of this Act;
16 and

17 (ii) service as a family law, depend-
18 ency, or domestic relations attorney that is
19 provided on or after the date of enactment
20 of this Act.

21 (C) CONSTRUCTION.—Nothing in this
22 paragraph shall be construed to authorize the
23 refunding of any repayment of a loan made by
24 a borrower prior to the date on which the bor-
25 rower became eligible for cancellation under

1 section 465(a) of the Higher Education Act of
2 1965 (20 U.S.C. 1087ee(a)).

3 (c) GAO STUDY.—

4 (1) IN GENERAL.—The Comptroller General of
5 the United States shall conduct a study that com-
6 pares States with respect to each of the following:

7 (A) The legal representation provided for
8 children.

9 (B) Children’s participation in their own
10 cases.

11 (C) Preparation of dependency court
12 judges.

13 (D) Case tracking and performance meas-
14 urement.

15 (E) Statewide collaborative foster care
16 councils.

17 (2) REPORT.—Not later than 1 year after the
18 date of the enactment of this Act, the Comptroller
19 General shall submit to the Committee on the Judi-
20 ciary of the House of Representatives a written re-
21 port that contains the results of the study required
22 by paragraph (1).

23 (d) SENSE OF THE CONGRESS WITH RESPECT TO
24 COURT ACCOUNTABILITY FOR IMPROVED CHILD OUT-
25 COMES.—It is the sense of the Congress that State judicial

1 leadership should use the measures of court performance
2 described in section 13712(b)(2) of the Omnibus Budget
3 Reconciliation Act of 1993 (as amended by subsection (a)
4 of this section) to ensure accountability by every court for
5 improved outcomes for children, and to inform decisions
6 about allocating resources across the court system.

7 (e) SENSE OF THE CONGRESS WITH RESPECT TO
8 THE ORGANIZATION OF STATE DEPENDENCY COURTS.—
9 It is the sense of the Congress that State courts should
10 be organized to enable children and parents to have legal
11 representation and participate in a meaningful way in
12 their own court proceedings.

13 (f) SENSE OF THE CONGRESS WITH RESPECT TO
14 BUILDING THE POOL OF ATTORNEYS QUALIFIED TO
15 HANDLE CASES IN DEPENDENCY COURTS.—It is the
16 sense of the Congress that law schools, bar associations,
17 and law firms should help build the pool of qualified attor-
18 neys available to children and parents in dependency
19 courts.

20 (g) SENSE OF THE CONGRESS WITH RESPECT TO
21 TRAINING, CASELOADS, AND COMPENSATION OF ATTOR-
22 NEYS FOR CHILDREN.—It is the sense of the Congress
23 that attorneys for children should have adequate training,

- 1 reasonable caseloads, and receive reasonable and adequate
- 2 compensation.

