

105TH CONGRESS
1ST SESSION

H. R. 867

To promote the adoption of children in foster care.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1997

Mr. CAMP (for himself, Mrs. KENNELLY of Connecticut, and Mr. SHAW) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To promote the adoption of children in foster care.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Adoption Promotion Act of 1997”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Clarification of the reasonable efforts required to be made before placing a child in foster care.
- Sec. 3. Earlier status reviews and permanency hearings.
- Sec. 4. Notice of reviews and hearings; opportunity of parties to be heard.
- Sec. 5. States required to initiate proceedings to terminate parental rights for certain children in foster care.
- Sec. 6. Report and recommendations on kinship care.

Sec. 7. Use of parent locator service in termination of parental rights proceedings.

Sec. 8. Reports on performance of States in protecting children.

Sec. 9. Authority to approve more child protection demonstration projects.

Sec. 10. Technical assistance.

Sec. 11. Adoption bonus for States.

Sec. 12. Effective date.

1 **SEC. 2. CLARIFICATION OF THE REASONABLE EFFORTS RE-**
 2 **QUIRED TO BE MADE BEFORE PLACING A**
 3 **CHILD IN FOSTER CARE.**

4 (a) IN GENERAL.—Section 471(a)(15) of the Social
 5 Security Act (42 U.S.C. 671(a)(15)) is amended to read
 6 as follows:

7 “(15)(A) provides that—

8 “(i) except as provided in clauses (ii) and
 9 (iii), reasonable efforts shall be made—

10 “(I) before a child is placed in foster
 11 care, to prevent or eliminate the need to
 12 remove the child from the child’s home;
 13 and

14 “(II) to make it possible for the child
 15 to return home;

16 “(ii) in a case involving aggravated cir-
 17 cumstances (as defined by the State and ap-
 18 proved by the Secretary) such as a case in
 19 which the child has been abandoned, tortured,
 20 chronically abused, or sexually abused, in which
 21 a parent of the child has been found by a court
 22 of competent jurisdiction to have engaged in

1 conduct described in section 106(b)(2)(A)(xii)
2 of the Child Abuse Prevention and Treatment
3 Act, or in which the parental rights of a parent
4 with respect to a sibling of the child have been
5 terminated—

6 “(I) reasonable efforts of the type de-
7 scribed in clause (i) of this subparagraph
8 shall not be required to be made; and

9 “(II) if reasonable efforts of the type
10 described in clause (i) of this subparagraph
11 are not made or if the continuation of such
12 efforts is determined to be inappropriate,
13 reasonable efforts shall be made to place
14 the child for adoption, with a legal guard-
15 ian, or (if adoption or legal guardianship is
16 determined not to be appropriate for the
17 child) in some other planned, permanent
18 living arrangement;

19 “(iii) in a case in which the continuation of
20 reasonable efforts of the type described in
21 clause (i) of this subparagraph is determined to
22 be inappropriate, reasonable efforts of the type
23 described in clause (ii)(II) shall be made; and

1 (2) by striking the period at the end of sub-
2 paragraph (D) and inserting “; and”; and

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

4 “(E) the foster parents (if any) of a child
5 and any relative providing care for the child are
6 provided with notice of, and an opportunity to
7 be heard in, any review or hearing to be held
8 with respect to the child.”.

9 **SEC. 5. STATES REQUIRED TO INITIATE PROCEEDINGS TO**
10 **TERMINATE PARENTAL RIGHTS FOR CER-**
11 **TAIN CHILDREN IN FOSTER CARE.**

12 Section 475(5) of the Social Security Act (42 U.S.C.
13 675(5)), as amended by section 4 of this Act, is amend-
14 ed—

15 (1) by striking “and” at the end of subpara-
16 graph (D);

17 (2) by striking the period at the end of sub-
18 paragraph (E) and inserting “; and”; and

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

20 “(F) in the case of a child who has not at-
21 tained 10 years of age and has been in foster
22 care under the responsibility of the State for 18
23 months (after the date of the enactment of this
24 subparagraph) of the most recent 24 months,

1 the State shall initiate a proceeding to termi-
2 nate the parental rights of the child's parents,
3 unless—

4 “(i) at the option of the State, the
5 child is being cared for by a relative; or

6 “(ii) a State court has determined
7 that doing so would not be in the best in-
8 terests of the child.”.

9 **SEC. 6. REPORT AND RECOMMENDATIONS ON KINSHIP**
10 **CARE.**

11 (a) REPORT.—

12 (1) IN GENERAL.—The Secretary of Health and
13 Human Services shall—

14 (A) not later than August 1, 1997, convene
15 the advisory panel provided for in subsection
16 (b)(1) and prepare and submit to the advisory
17 panel an initial report on the extent to which
18 children in foster care are placed in the care of
19 a relative (in this section referred to as “kin-
20 ship care”); and

21 (B) not later than April 1, 1998, submit to
22 the Committee on Ways and Means of the
23 House of Representatives and the Committee
24 on Finance of the Senate a final report on the

1 matter described in subparagraph (A), which
2 shall—

3 (i) be based on the comments submit-
4 ted by the advisory panel pursuant to sub-
5 section (b)(2) and other information and
6 considerations; and

7 (ii) include the policy recommenda-
8 tions of the Secretary with respect to the
9 matter.

10 (2) REQUIRED CONTENTS.—Each report re-
11 quired by paragraph (1) shall—

12 (A) include, for each State, information
13 on—

14 (i) the policy of the State regarding
15 kinship care;

16 (ii) the characteristics of the kinship
17 care providers (such as age and income);

18 (iii) the characteristics of the house-
19 hold of such providers (such as number of
20 other persons in the household and family
21 composition);

22 (iv) how much access to the child is
23 afforded to the parent from whom the
24 child has been removed;

1 (v) the cost of, and source of funds
2 for, kinship care (including any subsidies
3 such as medicaid and cash assistance);

4 (vi) the goal for a permanent living
5 arrangement for the child and the actions
6 being taken by the State to achieve the
7 goal;

8 (vii) the services being provided to the
9 parent from whom the child has been re-
10 moved; and

11 (viii) the services being provided to
12 the kinship care provider; and

13 (B) specifically note the circumstances or
14 conditions under which children enter kinship
15 care.

16 (b) ADVISORY PANEL.—

17 (1) ESTABLISHMENT.—The Secretary of Health
18 and Human Services, in consultation with the Chair-
19 man of the Committee on Ways and Means of the
20 House of Representatives and the Chairman of the
21 Committee on Finance of the Senate, shall convene
22 an advisory panel which shall include parents, foster

1 parents, former foster children, State and local pub-
2 lic officials responsible for administering child wel-
3 fare programs, private persons involved in the deliv-
4 ery of child welfare services, judges, and academic
5 experts.

6 (2) DUTIES.—The advisory panel convened pur-
7 suant to paragraph (1) shall review the report pre-
8 pared pursuant to subsection (a), and, not later than
9 February 1, 1998, submit to the Secretary com-
10 ments on the report.

11 **SEC. 7. USE OF PARENT LOCATOR SERVICE IN TERMI-**
12 **NATION OF PARENTAL RIGHTS PROCEED-**
13 **INGS.**

14 Section 453 of the Social Security Act (42 U.S.C.
15 653) is amended—

16 (1) in subsection (a)—

17 (A) by striking “or enforcing child custody
18 or visitation orders” and inserting “enforcing
19 child custody or visitation orders, or terminat-
20 ing parental rights”; and

21 (B) in paragraph (1)—

22 (i) by striking the comma at the end
23 of subparagraph (C) and inserting “; or”;
24 and

1 (ii) by inserting after subparagraph
2 (C) the following:

3 “(D) who has or may have parental rights
4 with respect to a child,”; and
5 (2) in subsection (c)—

6 (A) by striking the period at the end of
7 paragraph (3) and inserting “; and”; and

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

9 “(4) a State agency that is administering a pro-
10 gram operated under a State plan under subpart 1
11 of part B, or a State plan approved under subpart
12 2 of part B or under part E.”.

13 **SEC. 8. REPORTS ON PERFORMANCE OF STATES IN PRO-**
14 **TECTING CHILDREN.**

15 The Secretary of Health and Human Services, in con-
16 sultation with the American Public Welfare Association,
17 the National Governors’ Association, and child advocacy
18 organizations, shall—

19 (1) develop a set of outcome measures (includ-
20 ing length of stay in foster care, number of foster
21 care placements, and number of adoptions) that can
22 be used to assess the performance of States in oper-
23 ating child protection programs pursuant to parts B
24 and E of title IV of the Social Security Act to en-
25 sure the safety of children;

1 (2) to the maximum extent possible, the out-
2 come measures should be developed from data avail-
3 able from the Adoption and Foster Care Analysis
4 and Reporting System;

5 (3) develop a system for rating the performance
6 of States with respect to the outcome measures, and
7 provide to the States an explanation of the rating
8 system and how scores are determined under the
9 rating system;

10 (4) prescribe such regulations as may be nec-
11 essary to ensure that States provide to the Secretary
12 the data necessary to determine State performance
13 with respect to each outcome measure, as a condi-
14 tion of the State receiving funds under part E of
15 title IV of the Social Security Act;

16 (5) on October 1, 1998, and annually there-
17 after, prepare and submit to the Congress a report
18 on the performance of each State on each outcome
19 measure, which shall examine the reasons for high
20 performance and low performance and, where pos-
21 sible, make recommendations as to how State per-
22 formance could be improved.

1 **SEC. 9. AUTHORITY TO APPROVE MORE CHILD PROTEC-**
2 **TION DEMONSTRATION PROJECTS.**

3 Section 1130(a) of the Social Security Act (42 U.S.C.
4 1320a–9(a)) is amended by striking “10” and inserting
5 “15”.

6 **SEC. 10. TECHNICAL ASSISTANCE.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services shall provide technical assistance to as-
9 sist States and local communities to reach their targets
10 for increased numbers of adoptions and, to the extent that
11 adoption is not possible, alternative permanent place-
12 ments, for children in foster care.

13 (b) LIMITATIONS.—The technical assistance provided
14 under subsection (a) shall support the goal of encouraging
15 more adoptions out of the foster care system, when adop-
16 tions promote the best interests of children, and shall in-
17 clude the following:

18 (1) The development of best practice guidelines
19 for expediting termination of parental rights.

20 (2) Models to encourage the use of concurrent
21 planning.

22 (3) The development of specialized units and
23 expertise in moving children toward adoption as a
24 permanency goal.

1 (4) The development of risk assessment tools to
2 facilitate early identification of the children who will
3 be at risk of harm if returned home.

4 (5) Models to encourage the fast tracking of
5 children who have not attained 1 year of age into
6 foster and adoptive placements.

7 (c) LIMITATIONS ON AUTHORIZATION OF APPRO-
8 PRIATIONS.—To carry out this section, there are author-
9 ized to be appropriated to the Secretary of Health and
10 Human Services not to exceed \$10,000,000 for each of
11 fiscal years 1998 through 2000.

12 **SEC. 11. ADOPTION BONUS FOR STATES.**

13 Part E of title IV of the Social Security Act (42
14 U.S.C. 670–679) is amended by inserting after section
15 473 the following:

16 **“SEC. 473A. ADOPTION BONUS.**

17 “(a) GRANT AUTHORITY.—To the extent of available
18 appropriations, the Secretary shall make a grant to each
19 State, for each fiscal year for which the State is a bonus-
20 eligible State, in an amount equal to the adoption bonus,
21 and shall make the grant in the immediately succeeding
22 fiscal year.

23 “(b) BONUS-ELIGIBLE STATE.—A State is a bonus-
24 eligible State for a fiscal year if—

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

3 “(2) the number of foster child adoptions in the
4 State during the fiscal year exceeds the base number
5 of foster child adoptions for the State for the fiscal
6 year;

7 “(3) the State is in compliance with subsection
8 (c) for the fiscal year; and

9 “(4) the fiscal year is any of fiscal years 1998
10 through 2002.

11 “(c) DATA REQUIREMENTS.—

12 “(1) IN GENERAL.—A State is in compliance
13 with this subsection for a fiscal year if the State has
14 provided to the Secretary the data described in para-
15 graph (2) for fiscal year 1997 (or, if later, the fiscal
16 year that precedes the 1st fiscal year for which the
17 State seeks a grant under this section) and for each
18 succeeding fiscal year.

19 “(2) DETERMINATION OF NUMBERS OF ADOP-
20 TIONS.—

21 “(A) DETERMINATIONS BASED ON AFCARS
22 DATA.—Except as provided in subparagraph
23 (B), the Secretary shall determine the numbers
24 of foster child adoptions and of special needs
25 adoptions in a State during each of fiscal years

1 1997 through 2002, for purposes of this sec-
2 tion, on the basis of data meeting the require-
3 ments of the system established pursuant to
4 section 479, as reported by the State in May of
5 the fiscal year and in November of the succeed-
6 ing fiscal year, and approved by the Secretary
7 by April 1 of the succeeding fiscal year.

8 “(B) ALTERNATIVE DATA SOURCES PER-
9 MITTED FOR FISCAL YEAR 1997.—For purposes
10 of the determination described in subparagraph
11 (A) for fiscal year 1997, the Secretary may use
12 data from a source or sources other than that
13 specified in subparagraph (A) that the Sec-
14 retary finds to be of equivalent completeness
15 and reliability, as reported by a State by No-
16 vember 30, 1997, and approved by the Sec-
17 retary by March 1, 1998.

18 “(3) NO WAIVER OF AFCARS REQUIREMENTS.—
19 This section shall not be construed to alter or affect
20 any requirement of section 479 or any regulation
21 prescribed under such section with respect to report-
22 ing of data by States, or to waive any penalty for
23 failure to comply with the requirements.

24 “(d) ADOPTION BONUS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the adoption bonus payable to a State for
3 a fiscal year under this section shall be equal to the
4 sum of—

5 “(A) \$4,000, multiplied by amount (if any)
6 by which the number of foster child adoptions
7 in the State during the fiscal year exceeds the
8 base number of foster child adoptions for the
9 State for the fiscal year; and

10 “(B) \$2,000, multiplied by the amount (if
11 any) by which the number of special needs
12 adoptions in the State during the fiscal year ex-
13 ceeds the base number of special needs adop-
14 tions for the State for the fiscal year.

15 “(2) PRO RATA ADJUSTMENT IF INSUFFICIENT
16 APPROPRIATIONS.—If the total amount of adoption
17 bonuses otherwise payable under this section in a
18 fiscal year exceeds the amount available for grants
19 under this section for the fiscal year, the adoption
20 bonus otherwise payable to a State under this sec-
21 tion in the fiscal year shall be reduced by the
22 amount which bears the same ratio to the excess as
23 the adoption bonus otherwise payable to the State
24 under this section in the fiscal year bears to the

1 total amount of adoption bonuses otherwise payable
2 under this section in the fiscal year.

3 “(e) 2-YEAR AVAILABILITY OF BONUS PAYMENTS.—
4 Payments to a State under this section in a fiscal year
5 shall remain available for use by the State through the
6 end of the succeeding fiscal year.

7 “(f) LIMITATIONS ON USE OF BONUS PAYMENTS.—
8 A State shall not expend an amount paid to the State
9 under this section except to provide to children receiving
10 foster care maintenance payments or adoption assistance
11 payments under this part any service (including post adop-
12 tion services) that may be provided under part B.
13 Amounts expended by a State in accordance with the pre-
14 ceding sentence shall be disregarded in determining State
15 expenditures for purposes of Federal matching payments
16 under section 474.

17 “(g) DEFINITIONS.—As used in this section:

18 “(1) FOSTER CHILD ADOPTION.—The term
19 ‘foster child adoption’ means the final adoption of a
20 child who, at the time of adoptive placement, was in
21 foster care under the supervision of the State.

22 “(2) SPECIAL NEEDS ADOPTION.—The term
23 ‘special needs adoption’ means the final adoption of
24 a child for whom an adoption assistance agreement
25 is in effect under section 473.

1 “(3) BASE NUMBER OF FOSTER CHILD ADOPT-
2 TIONS.—The term ‘base number of foster child
3 adoptions for a State’ means, with respect to a fiscal
4 year, the largest number of foster child adoptions in
5 the State in fiscal year 1997 (or, if later, the 1st fis-
6 cal year for which the State has furnished to the
7 Secretary the data described in subsection (c)(2)) or
8 in any succeeding fiscal year preceding the fiscal
9 year.

10 “(4) BASE NUMBER OF SPECIAL NEEDS ADOPT-
11 TIONS.—The term ‘base number of special needs
12 adoptions for a State’ means, with respect to a fiscal
13 year, the largest number of special needs adoptions
14 in the State in fiscal year 1997 (or, if later, the 1st
15 fiscal year for which the State has furnished to the
16 Secretary the data described in subsection (c)(2)) or
17 in any succeeding fiscal year preceding the fiscal
18 year.

19 “(h) LIMITATIONS ON AUTHORIZATION OF APPRO-
20 PRIATIONS.—

21 “(1) IN GENERAL.—For grants under this sec-
22 tion, there are authorized to be appropriated to the
23 Secretary not to exceed a total of \$108,000,000 for
24 fiscal years 1999 through 2003.

1 “(2) AVAILABILITY OF APPROPRIATIONS.—
2 Amounts appropriated under paragraph (1) are au-
3 thorized to remain available until expended, but not
4 after fiscal year 2003.”.

5 **SEC. 12. EFFECTIVE DATE.**

6 (a) IN GENERAL.—The amendments made by this
7 Act shall take effect on October 1, 1997.

8 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
9 QUIRED.—In the case of a State plan under part B or
10 E of title IV of the Social Security Act which the Secretary
11 of Health and Human Services determines requires State
12 legislation (other than legislation appropriating funds) in
13 order for the plan to meet the additional requirements im-
14 posed by the amendments made by this Act, the State plan
15 shall not be regarded as failing to comply with the require-
16 ments of such part solely on the basis of the failure of
17 the plan to meet such additional requirements before the
18 1st day of the 1st calendar quarter beginning after the
19 close of the 1st regular session of the State legislature that
20 begins after the date of the enactment of this Act. For
21 purposes of the previous sentence, in the case of a State
22 that has a 2-year legislative session, each year of such ses-
23 sion shall be deemed to be a separate regular session of
24 the State legislature.

○