

112TH CONGRESS  
1ST SESSION

# S. 1509

To provide incentives for States to improve the well-being of children in the child welfare system through systemic reforms and innovations, increased collaboration between State agencies, and incorporation of higher standards of accountability.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2011

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide incentives for States to improve the well-being of children in the child welfare system through systemic reforms and innovations, increased collaboration between State agencies, and incorporation of higher standards of accountability.

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 “Promoting Account-  
5 ability and Excellence in Child Welfare Act of 2011”.

1 **SEC. 2. CHILD WELFARE INNOVATION GRANT PROGRAM.**

2 (a) IN GENERAL.—The Secretary shall establish a  
3 child welfare innovation grant program (referred to in this  
4 section as the “grant program”) that provides eligible en-  
5 tities with the necessary flexibility and financial incentives  
6 to implement comprehensive reforms to existing child wel-  
7 fare programs under parts B and E of title IV of the So-  
8 cial Security Act (42 U.S.C. 621 et seq., 42 U.S.C. 670  
9 et seq.) in order to—

10 (1) achieve significant results that improve the  
11 well-being of all children in the child welfare system;  
12 and

13 (2) incorporate higher standards of account-  
14 ability for State and local agencies and organizations  
15 that provide child welfare services.

16 (b) ELIGIBLE ENTITIES.—For purposes of this sec-  
17 tion, an eligible entity shall include any State or political  
18 subdivision of a State that submits an application pursu-  
19 ant to the requirements described in subsection (e).

20 (c) DURATION.—

21 (1) IN GENERAL.—For purposes of carrying out  
22 the goals described in subsection (a), the Secretary  
23 shall award grants, as well as additional financial  
24 assistance (as determined under subsection (d)), to  
25 eligible entities that have submitted an application  
26 that has been approved by the Secretary. The

1 amount of the grant provided to the eligible entity  
2 shall be determined by the Secretary and, subject to  
3 paragraph (2), remain available for use by the eligi-  
4 ble entity for a period of 5 years.

5 (2) IMPLEMENTATION REQUIREMENT.—The  
6 Secretary may terminate a grant awarded to an eli-  
7 gible entity under paragraph (1) if, during the 3-  
8 year period following the awarding of the grant, the  
9 eligible entity has not made appropriate progress in  
10 implementing the intervention services and reforms  
11 proposed by the entity under subsection (e)(1), as  
12 determined by the Secretary pursuant to the applica-  
13 ble implementation standards described under sub-  
14 section (f)(1).

15 (3) RENEWAL OF GRANTS.—

16 (A) IN GENERAL.—Subject to subpara-  
17 graph (B), if an eligible entity has made signifi-  
18 cant progress in achieving the child well-being  
19 results proposed by the entity under subsection  
20 (e)(1), as determined by the Secretary pursuant  
21 to the applicable implementation standards and  
22 performance measures described under sub-  
23 section (f), the Secretary may award an addi-  
24 tional grant to the eligible entity for a period of  
25 not greater than 5 years.

1 (B) RE-APPLICATION BY ELIGIBLE ENTI-  
2 TY.—For purposes of receiving an additional  
3 grant under this paragraph, the eligible entity  
4 shall, not less than 6 months prior to expiration  
5 of the initial grant described in paragraph (1),  
6 submit to the Secretary an application at such  
7 time, in such manner, and containing such in-  
8 formation as the Secretary may require.

9 (4) MINIMUM FUNDING REQUIREMENT.—

10 (A) IN GENERAL.—For purposes of receiv-  
11 ing a grant under this section, the eligible enti-  
12 ty shall be required to annually expend non-  
13 Federal funds for purposes of achieving the  
14 child well-being results proposed by the entity  
15 under subsection (e)(1) in an amount that is  
16 not less than—

17 (i) for the first year in which such a  
18 grant is awarded, 25 percent of the  
19 amount of the grant;

20 (ii) for the second year in which such  
21 a grant is awarded, 35 percent of the  
22 amount of the grant; and

23 (iii) for the third year and any subse-  
24 quent year in which such a grant is award-  
25 ed (including any year for which an addi-

1            tional grant has been awarded under para-  
2            graph (3)), 50 percent of the amount of  
3            the grant.

4            (B) NON-FEDERAL SHARE.—For purposes  
5            of subparagraph (A), the eligible entity may  
6            provide the non-Federal share in cash or in-  
7            kind, as fairly evaluated by the Secretary. The  
8            eligible entity may provide the non-Federal  
9            share from State, local, or private sources.

10          (d) ADDITIONAL FINANCIAL ASSISTANCE.—The Sec-  
11          retary shall establish an inter-agency working group that  
12          includes representatives from the Department of Edu-  
13          cation, the Department of Labor, the Department of Jus-  
14          tice, the Department of Housing and Urban Development,  
15          and other Federal agencies with responsibility for admin-  
16          istering programs that affect the child welfare system, for  
17          the purpose of identifying existing Federal financial re-  
18          sources that may be used to provide supplemental funding  
19          to eligible entities that have been awarded grants under  
20          this section, including—

21                  (1) establishment of flexibility within existing  
22          Federal financial resources;

23                  (2) dedicating a share of funds from existing  
24          Federal programs, or creating a preference within  
25          such programs;

1           (3) use of existing administrative authority to  
2 waive certain State or Federal funding requirements,  
3 including waiver authority provided under subsection  
4 (i);

5           (4) commitment of appropriated discretionary  
6 funds;

7           (5) creation of an aggregated source of funding  
8 through bundling of existing Federal programs; and

9           (6) establishment of partnerships with private  
10 entities, including private foundations involved in  
11 child welfare issues.

12       (e) APPLICATION.—An eligible entity that desires to  
13 participate in the grant program shall submit to the Sec-  
14 retary an application at such time, in such manner, and  
15 containing such information as the Secretary may require,  
16 which shall include a detailed description of the following:

17           (1) IMPROVED CHILD WELL-BEING RESULTS.—

18       The proposed reforms and methods for achieving  
19 significant results that improve the well-being of all  
20 children in the child welfare system, including a de-  
21 tailed outline of—

22           (A) the specific populations or groups of  
23 children and families that will be targeted  
24 under the grant program;

1 (B) the specific child well-being results  
2 that will be achieved during the periods de-  
3 scribed in subsection (c);

4 (C) the specific methods through which the  
5 child well-being results will be achieved under  
6 the grant program, including proposals for  
7 intervention services and strategic reforms to  
8 child welfare policy and infrastructure; and

9 (D) the evidentiary basis or best practice  
10 models on which such intervention services and  
11 reforms are to be based.

12 (2) PARTNERSHIPS.—The partnerships to be  
13 established between participating State and local  
14 agencies and organizations under the grant program,  
15 including—

16 (A) a detailed outline regarding how the  
17 partnership will establish a coordinated process  
18 for delivery of services, sharing of information  
19 and data, and division of specific responsibilities  
20 pursuant to interagency agreements;

21 (B) the establishment of a memorandum of  
22 understanding between participating State and  
23 local agencies and organizations under the  
24 grant program to—

1 (i) provide for shared accountability in  
2 achieving child well-being results proposed  
3 under paragraph (1) and their specific re-  
4 sponsibilities in achieving such results; and

5 (ii) satisfy the implementation stand-  
6 ards established by the Secretary under  
7 subsection (f)(1); and

8 (C) certification by the chief executive offi-  
9 cer of the eligible entity of their commitment  
10 to—

11 (i) achieve the child well-being results  
12 proposed under paragraph (1) and their  
13 responsibility for achieving such results;  
14 and

15 (ii) satisfy the implementation stand-  
16 ards established by the Secretary under  
17 subsection (f)(1).

18 (3) COLLABORATION WITH CHILDREN AND PAR-  
19 ENTS.—The processes to ensure collaboration be-  
20 tween the eligible entity, foster parents, biological  
21 parents, family members, kinship caregivers, and  
22 children in the child welfare system in the develop-  
23 ment and implementation of intervention services  
24 and reforms under the grant program.

1           (4) DATA COLLECTION AND REPORTING.—The  
2 approaches for development of enhanced data collec-  
3 tion and reporting, which shall include—

4           (A) collection and reporting of relevant  
5 data (as determined appropriate by the Sec-  
6 retary), with such data to be disaggregated by  
7 race, ethnicity, and gender in order to monitor  
8 progress in achieving child well-being results in  
9 providing services to specific populations of chil-  
10 dren in the child welfare system;

11           (B) development and implementation of a  
12 specific data collection plan, which shall include  
13 a description of the types of data that will be  
14 collected by the eligible entity (including data  
15 required by the Secretary under subparagraph  
16 (A) that is not currently collected by the entity)  
17 and the methods through which such data will  
18 be obtained, such as surveys, assessments, and  
19 other forms of data collection;

20           (C) a detailed outline regarding how data  
21 collected by the eligible entity will be incor-  
22 porated in the development of intervention serv-  
23 ices and reforms under the grant program; and

24           (D) certification by the manager or chief  
25 officer for information technology for the eligi-

1           ble entity of their commitment and ability to  
2           collect and report relevant data under the grant  
3           program.

4           (5) SUPPORT FROM PRIVATE ENTITIES.—Any  
5           commitments by private entities to provide addi-  
6           tional funding for support of activities under the  
7           grant program to improve the well-being of children  
8           in the child welfare system.

9           (f) IMPLEMENTATION STANDARDS AND PERFORM-  
10          ANCE MEASURES.—

11           (1) IMPLEMENTATION STANDARDS.—The Sec-  
12           retary shall establish a set of implementation stand-  
13           ards to annually determine, for purposes of sub-  
14           section (c), whether an eligible entity has imple-  
15           mented, or made appropriate progress in imple-  
16           menting, the intervention services and reforms pro-  
17           posed by the entity under subsection (e)(1), includ-  
18           ing development, implementation, and maintenance  
19           of data collection systems.

20           (2) PERFORMANCE MEASURES.—

21           (A) IN GENERAL.—The Secretary shall es-  
22           tablish a set of performance measures to annu-  
23           ally determine, for purposes of subsection (c),  
24           whether an eligible entity has achieved, or made  
25           significant progress in achieving, the child well-

1 being results proposed by the entity under sub-  
2 section (e)(1), which shall include measure-  
3 ments to quantify—

4 (i) improvements in the well-being of  
5 children in the child welfare system, in-  
6 cluding—

7 (I) the base performance meas-  
8 ures described in subparagraph (B);  
9 and

10 (II) any additional performance  
11 measures described in subparagraph  
12 (C) that are applicable to the child  
13 well-being results proposed by the en-  
14 tity; and

15 (ii) improvements in the overall qual-  
16 ity of life for foster parents.

17 (B) BASE PERFORMANCE MEASURES.—

18 The performance measures described under this  
19 paragraph include the number and percentage  
20 of children in the child welfare system who—

21 (i) were under 5 years of age and at  
22 appropriate levels of mental, emotional,  
23 and physical development;

1 (ii) if deemed to be in the child's best  
2 interest, remained in his or her school of  
3 origin; and

4 (iii) received health screenings not  
5 later than 30 days after foster care place-  
6 ment.

7 (C) ADDITIONAL PERFORMANCE MEAS-  
8 URES.—Subject to subparagraph (D), the Sec-  
9 retary shall establish additional performance  
10 measures that are specifically designed to meas-  
11 ure progress in achieving the child well-being  
12 results proposed by the eligible entity under  
13 subsection (e)(1), which may include—

14 (i) the number and percentage of chil-  
15 dren in the child welfare system who—

16 (I) were under 5 years of age and  
17 attended preschool or early care and  
18 education programs regularly;

19 (II) were involved in an abuse or  
20 neglect investigation;

21 (III) achieved grade-level pro-  
22 ficiency in reading and math;

23 (IV) attended school regularly;

24 (V) were involved in the juvenile  
25 justice system;

1 (VI) were prescribed psychotropic  
2 medication;

3 (VII) graduated from high school  
4 on time;

5 (VIII) entered post-secondary  
6 education or training;

7 (IX) regularly received routine  
8 medical care and examinations;

9 (X) were reunified with family;

10 (XI) re-entered the child welfare  
11 system following family reunification;  
12 or

13 (XII) had attained 14 years of  
14 age before entering the child welfare  
15 system;

16 (ii) measures to ensure proper func-  
17 tioning of the child welfare system, such  
18 as—

19 (I) reasonableness of caseload  
20 levels for caseworkers; and

21 (II) adequacy and frequency of  
22 visits with children by caseworkers;  
23 and

24 (iii) subject to approval by the Sec-  
25 retary, any performance measures that are

1           proposed by the entity for determination of  
2           its progress towards achievement of the  
3           child well-being results.

4           (D) CONSULTATION WITH ELIGIBLE ENTI-  
5           TY.—The Secretary shall consult with the eligi-  
6           ble entity for purposes of establishing additional  
7           performance measures under subparagraph (C)  
8           that are appropriate for determination of  
9           progress in achieving the child well-being re-  
10          sults proposed by the entity under subsection  
11          (e)(1).

12          (g) USE OF GRANTS BY ELIGIBLE ENTITIES.—An el-  
13          igible entity that receives a grant under this section shall  
14          use the funds made available through the grant to develop,  
15          implement, and evaluate the intervention services and re-  
16          forms proposed by the entity under subsection (e)(1), in-  
17          cluding development, implementation, and maintenance of  
18          data collection systems.

19          (h) ANNUAL REPORTING.—

20                  (1) IN GENERAL.—An eligible entity that re-  
21          ceives a grant under this section shall submit an an-  
22          nual report to the Secretary on—

23                          (A) the specific intervention services and  
24                  reforms implemented under the grant program;

1 (B) progress in achieving the child well-  
2 being results proposed by the entity under sub-  
3 section (e)(1), including an analysis of the ef-  
4 fectiveness of the grant funding in achieving the  
5 results; and

6 (C) an analysis of the progress made by  
7 the eligible entity over the preceding 12-month  
8 period pursuant to the performance measures  
9 established by the Secretary under subsection  
10 (f).

11 (2) PUBLIC AVAILABILITY OF REPORTS AND  
12 DATA.—An eligible entity shall make available to the  
13 public, in a manner that is also accessible to children  
14 in the child welfare system, biological families, and  
15 foster parents—

16 (A) any report submitted to the Secretary  
17 under paragraph (1); and

18 (B) a summary of the data collected pur-  
19 suant to subsection (e)(4)(A).

20 (i) WAIVER AUTHORITY.—The Secretary may waive  
21 such requirements under parts B and E of title IV of the  
22 Social Security Act (42 U.S.C. 621 et seq., 42 U.S.C. 670  
23 et seq.) as may be necessary to carry out the grant pro-  
24 gram.

1 (j) AUTHORIZATION OF APPROPRIATIONS.—For pur-  
2 poses of carrying out the grant program under this sec-  
3 tion, there is authorized to be appropriated—

- 4 (1) for fiscal year 2013, \$40,000,000;  
5 (2) for fiscal year 2014, \$30,000,000;  
6 (3) for fiscal year 2015, \$20,000,000; and  
7 (4) for each of fiscal years 2016 through 2022,  
8 \$10,000,000.

9 (k) DEFINITIONS.—In this section:

10 (1) CHILD WELL-BEING RESULT.—The term  
11 “child well-being result” means a desired condition  
12 of well-being for all children in the child welfare sys-  
13 tem, including the specific populations or groups of  
14 children that will be targeted under the grant pro-  
15 gram.

16 (2) SCHOOL OF ORIGIN.—The term “school of  
17 origin” means, with respect to a child in foster  
18 care—

19 (A) the school in which the child was en-  
20 rolled prior to entry into foster care; or

21 (B) the school in which the child is en-  
22 rolled when a change in foster care placement  
23 occurs or is proposed.

24 (3) SECRETARY.—The term “Secretary” means  
25 the Secretary of Health and Human Services.

1 (4) STATE.—The term “State” means—

2 (A) any of the 50 States or the District of  
3 Columbia;

4 (B) Puerto Rico, Guam, the Virgin Is-  
5 lands, or American Samoa; or

6 (C) an Indian tribe, tribal organization, or  
7 tribal consortium.

8 (5) WELL-BEING.—The term “well-being”  
9 means the overall quality of life for a child in the  
10 child welfare system, which shall include—

11 (A) the safety and health of the child;

12 (B) the mental, emotional, educational,  
13 and physical development of the child, including  
14 the ability of the child to maximize their indi-  
15 vidual potential; and

16 (C) permanency and ability to transition to  
17 self-sufficiency after aging out of the child wel-  
18 fare system.

19 **SEC. 3. REPORTS TO CONGRESS.**

20 (a) INCOME ELIGIBILITY REQUIREMENTS FOR CHIL-  
21 DREN IN FOSTER CARE.—Not later than 90 days after  
22 the date of enactment of this Act, the Secretary of Health  
23 and Human Services (referred to in this section as the  
24 “Secretary”) shall submit to Congress a report on rec-  
25 ommendations for legislative or administrative action nec-

1    essary to eliminate the requirement that a child be deemed  
2    to be a recipient of aid to families with dependent children  
3    under part A of title IV of the Social Security Act (as  
4    in effect as of July 16, 1996) (referred to in this section  
5    as the “AFDC income eligibility requirements”) for pur-  
6    poses of foster care maintenance payments under section  
7    472 of such Act (42 U.S.C. 672), including an analysis  
8    of—

9           (1) the effects of phasing out the AFDC income  
10           eligibility requirements for adoption assistance pay-  
11           ments under section 473 of the Social Security Act  
12           (42 U.S.C. 673), as enacted by section 402 of the  
13           Fostering Connections to Success and Increasing  
14           Adoptions Act of 2008 (Public Law 110–351; 122  
15           Stat. 3975);

16           (2) State administrative expenses related to the  
17           existing disparity in Federal reimbursement rates  
18           for foster care maintenance payments;

19           (3) the level of services provided by States to  
20           children in foster care that meet AFDC income eligi-  
21           bility requirements under section 472 of the Social  
22           Security Act, and thereby provide States with Fed-  
23           eral reimbursement for foster care maintenance pay-  
24           ments under section 474 of such Act, as compared

1 to children in foster care that do not meet the  
2 AFDC income eligibility requirements;

3 (4) the long-term effects related to maintaining  
4 the AFDC income eligibility requirements under sec-  
5 tion 472 of the Social Security Act for purposes of  
6 the amount of overall Federal funding that will be  
7 made available to States for foster care services and  
8 the resulting impact on the ability of States to pro-  
9 vide adequate services to children in foster care; and

10 (5) the feasibility of eliminating the AFDC in-  
11 come eligibility requirements for purposes of foster  
12 care maintenance payments under section 472 of the  
13 Social Security Act in a manner that is budget neu-  
14 tral, or at a limited cost to the Federal Government,  
15 and the effect that such an elimination would have  
16 on the ability of States to provide adequate levels of  
17 services to all children in foster care.

18 (b) CHILD WELFARE INNOVATION GRANT PRO-  
19 GRAM.—Not later than 180 days after completion of the  
20 child welfare innovation grant program under section 2  
21 of this Act, the Secretary shall submit to Congress a re-  
22 port analyzing the intervention services and reforms im-  
23 plemented by eligible entities under the grant program,  
24 the child well-being results achieved through such services  
25 and reforms, and recommendations for such legislation

1 and administrative action as the Secretary determines ap-  
2 propriate.

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