

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title II, §206(c), Oct. 31, 1994, 108 Stat. 4457, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1995."

Pub. L. 103-432, title II, §209(d), Oct. 31, 1994, 108 Stat. 4459, provided that: "The amendments made by this section [amending this section and section 679 of this title] shall be effective with respect to fiscal years beginning on or after October 1, 1995."

Amendment by section 265(c) of Pub. L. 103-432 effective as if included in the provision of Pub. L. 101-239 to which the amendment relates, at the time the provision became law, see section 265(d) of Pub. L. 103-432, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VIII, §8007(c), Dec. 19, 1989, 103 Stat. 2462, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on April 1, 1990."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective Oct. 1, 1988, see section 8104(g)(1) of Pub. L. 100-647, set out as a note under section 677 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Apr. 1, 1988, see section 9133(c) of Pub. L. 100-203, set out as a note under section 672 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable only with respect to expenditures made after Dec. 31, 1986, see section 1711(d) of Pub. L. 99-514, set out as a note under section 670 of this title.

Amendment by section 12305(b)(2) of Pub. L. 99-272 applicable to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after Apr. 7, 1986, see section 12305(c) of Pub. L. 99-272, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-272, title I, §101(a)(4)(A), June 17, 1980, 94 Stat. 512, provided that: "Clause (B) of the first sentence of section 475(3) of the Social Security Act [42 U.S.C. 675(3)(B)] (as added by subsection (a) of this section) shall be effective with respect to adoption assistance agreements entered into on or after October 1, 1983."

Amendment by section 102(a)(4) of Pub. L. 96-272 effective only with respect to expenditures made after Sept. 30, 1979, see section 102(c) of Pub. L. 96-272, as amended, set out as a note under section 672 of this title.

CONSTRUCTION

For construction of amendment by section 209(a)(2) of Pub. L. 113-183, see section 209(b) of Pub. L. 113-183, set out as a note under section 671 of this title.

Pub. L. 105-89, title I, §103(d), Nov. 19, 1997, 111 Stat. 2119, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note below] or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experi-

enced multiple foster care placements of varying durations."

TRANSITION RULES; NEW AND CURRENT FOSTER CHILDREN

Pub. L. 105-89, title I, §103(c), Nov. 19, 1997, 111 Stat. 2119, provided that:

"(1) NEW FOSTER CHILDREN.—In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act [42 U.S.C. 675(5)(F)]) under the responsibility of a State after the date of the enactment of this Act [Nov. 19, 1997]—

"(A) if the State comes into compliance with the amendments made by subsection (a) of this section [amending this section] before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act [42 U.S.C. 675(5)(E)] with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

"(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

"(2) CURRENT FOSTER CHILDREN.—In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall—

"(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than 1/3 of such children as the State shall select, giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]) is adoption and children who have been in foster care for the greatest length of time;

"(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than 2/3 of such children as the State shall select; and

"(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

"(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS.—For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

"(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS.—For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act [42 U.S.C. 671(a)]."

§ 675a. Additional case plan and case review system requirements**(a) Requirements for another planned permanent living arrangement**

In the case of any child for whom another planned permanent living arrangement is the permanency plan determined for the child under section 675(5)(C) of this title, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1) Documentation of intensive, ongoing, unsuccessful efforts for family placement

At each permanency hearing held with respect to the child, the State agency documents the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made

by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children.

(2) Redetermination of appropriateness of placement at each permanency hearing

The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:

(A) Ask the child about the desired permanency outcome for the child.

(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to—

- (i) return home;
- (ii) be placed for adoption;
- (iii) be placed with a legal guardian; or
- (iv) be placed with a fit and willing relative.

(3) Demonstration of support for engaging in age or developmentally-appropriate activities and social events

At each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure that—

(A) the child's foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(b) List of rights

The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 675(5)(I) of this title in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(c) Assessment, documentation, and judicial determination requirements for placement in a qualified residential treatment program

In the case of any child who is placed in a qualified residential treatment program (as defined in section 672(k)(4) of this title), the fol-

lowing requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1)(A) Within 30 days of the start of each placement in such a setting, a qualified individual (as defined in subparagraph (D)) shall—

(i) assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;

(ii) determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting from among the settings specified in section 672(k)(2) of this title would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(iii) develop a list of child-specific short- and long-term mental and behavioral health goals.

(B)(i) The State shall assemble a family and permanency team for the child in accordance with the requirements of clauses (ii) and (iii). The qualified individual conducting the assessment required under subparagraph (A) shall work in conjunction with the family of, and permanency team for, the child while conducting and making the assessment.

(ii) The family and permanency team shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the family and permanency team shall include the members of the permanency planning team for the child that are selected by the child in accordance with section 675(5)(C)(iv) of this title.

(iii) The State shall document in the child's case plan—

(I) the reasonable and good faith effort of the State to identify and include all the individuals described in clause (ii) on the child's family and permanency team;

(II) all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;

(III) evidence that meetings of the family and permanency team, including meetings relating to the assessment required under subparagraph (A), are held at a time and place convenient for family;

(IV) if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;

(V) evidence that the assessment required under subparagraph (A) is determined in conjunction with the family and permanency team;

(VI) the placement preferences of the family and permanency team relative to the as-

assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest; and

(VII) if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment under subparagraph (A), the reasons why the preferences of the team and of the child were not recommended.

(C) In the case of a child who the qualified individual conducting the assessment under subparagraph (A) determines should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual also shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

(D)(i) Subject to clause (ii), in this subsection, the term “qualified individual” means a trained professional or licensed clinician who is not an employee of the State agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State.

(ii) The Secretary may approve a request of a State to waive any requirement in clause (i) upon a submission by the State, in accordance with criteria established by the Secretary, that certifies that the trained professionals or licensed clinicians with responsibility for performing the assessments described in subparagraph (A) shall maintain objectivity with respect to determining the most effective and appropriate placement for a child.

(2) Within 60 days of the start of each placement in a qualified residential treatment program, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, shall—

(A) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment under paragraph (1);

(B) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(C) approve or disapprove the placement.

(3) The written documentation made under paragraph (1)(C) and documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under paragraph (2) shall be included in and made part of the case plan for the child.

(4) As long as a child remains placed in a qualified residential treatment program, the State agency shall submit evidence at each status review and each permanency hearing held with respect to the child—

(A) demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

(B) documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(C) documenting the efforts made by the State agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(5) In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State agency shall submit to the Secretary—

(A) the most recent versions of the evidence and documentation specified in paragraph (4); and

(B) the signed approval of the head of the State agency for the continued placement of the child in that setting.

(Aug. 14, 1935, ch. 531, title IV, §475A, as added and amended Pub. L. 113-183, title I, §§112(b)(1), 113(d), Sept. 29, 2014, 128 Stat. 1926, 1929; Pub. L. 115-123, div. E, title VII, §50742, Feb. 9, 2018, 132 Stat. 257.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-123 added subsec. (c).

2014—Subsec. (b). Pub. L. 113-183, §113(d), added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-123 effective Oct. 1, 2019, with State option to delay effective date for not more than 2 years and subject to State waiver provisions, see section 50746 of Pub. L. 115-123, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 113(d) of Pub. L. 113-183 effective on the date that is 1 year after Sept. 29, 2014, with

delay permitted if State legislation is required, see section 113(f) of Pub. L. 113-183, set out as a note under section 675 of this title.

EFFECTIVE DATE

Section effective on the date that is 1 year after Sept. 29, 2014, with delay permitted if State legislation is required, see section 112(c) of Pub. L. 113-183, set out as an Effective Date of 2014 Amendment note under section 622 of this title.

§ 676. Administration

(a) Technical assistance to States

The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this subchapter and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Data collection and evaluation

Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) Technical assistance and implementation services for tribal programs

(1) Authority

The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) Assistance provided

(A) In general

The technical assistance and implementation services shall be to—

(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 679c of this title; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 622(b)(9), 671(a)(32), or 677(b)(3)(G) of this title; and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24

months after receiving such a grant to submit to the Secretary a plan under section 671 of this title to implement a program under this part as authorized by section 679c of this title, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 671 of this title to carry out a program under section 679c of this title, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 675(5) of this title, or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) Grant condition

(i) In general

As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 671 of this title to carry out a program under section 679c of this title by the end of the 24-month period described in that subparagraph.

(ii) Exception

The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) Implementation authority

The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) Appropriation

There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

(d) Technical assistance and best practices, clearinghouse, data collection, and evaluations relating to prevention services and programs

(1) Technical assistance and best practices

The Secretary shall provide to States and, as applicable, to Indian tribes, tribal organizations, and tribal consortia, technical assistance regarding the provision of services and programs described in section 671(e)(1) of this title and shall disseminate best practices with respect to the provision of the services and