

# CHILD AND FAMILY SERVICES IMPROVEMENT AND INNOVATION ACT

## What do child welfare agencies need to know?

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**Objective:** This article summarizes the main points of the recent legislation reauthorizing Title IV-B of the Social Security Act and reinstating waiver authority to Health and Human Services (HHS), known as the Child and Family Services Improvement and Innovation Act (CFSII) and points out several modifications that child welfare agencies should be aware of.

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## TITLE I - EXTENSION OF CHILD AND FAMILY SERVICES PROGRAM

### Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B Subpart 1)

The first section of the CFSII legislation is an extension of the **Stephanie Tubbs Jones Child Welfare Services Program (more commonly known as Title IV-B)**. This act extends Title IV-B Subpart 1 authorization through 2016. Title IV-B Subpart 1 money is used to fund community-based services for the following purposes:

1. Protecting and promoting the welfare of all children;
2. Preventing the neglect, abuse, or exploitation of children;
3. Supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;
4. Promoting the safety, permanence, and well-being of children in foster care and adoptive families; and
5. Providing training, professional development and support to ensure a well-qualified child welfare workforce.

The legislation did not change the statutory limit for this funding source: \$325,000,000 per year. The allotment procedures for individual states remain the same and are found in the Social Security Act (Section 423 and Section 424).

#### Modifications: State Plan

Title IV-B requires a State Plan in order to be eligible for this funding stream. CFSII requires several modifications to this required State Plan:

- A. The IV-B State Plan is currently required to have a section on the ongoing oversight and coordination of health care services (physical, mental health, dental) for any child in a foster care placement (Section 422(b) (15)). The modified language requires the addition of trauma related to maltreatment and placement as an additional consideration to be addressed.
- B. This same section of the plan also states that there needs to be an outline regarding the oversight of prescription medicines that includes protocols for the appropriate use and monitoring of psychotropic medication.
- C. CFSII also includes several additions to the overall IV-B State Plan, including a description of permanency efforts for children under 5 years of age and activities that address the developmental needs of this population.
- D. The second addition to the overall IV-B State Plan pertains to child death reporting and sources of required information.

#### Modifications: Caseworker Visit Requirements

CFSII also modifies the caseworker visitation requirements originally in Section 424(e) of the Social Security Act. The previous goal was for a caseworker visit to occur monthly at a

90% level with a majority of the visits to occur in the residence of the child. The new legislation maintains 90% as the goal until 2015 (when it changes to 95%), but the language allows for an average of 1 visit per month over the course of a fiscal year. The penalties for not achieving this goal remain the same as in the current Social Security Act.

Another addition to this requirement is the addition of penalties for not achieving the 50% requirement for caseworker visits to occur in the residence of the child. The penalty levels are the same as those for not achieving the overall visitation rate.

## PROMOTING SAFE AND STABLE FAMILIES PROGRAM (TITLE IV-B SUBPART 2)

CFSII also extends the funding authority of the Promoting Safe and Stable Families program, as outlined in the Social Security Act (Section 430). This funding is used for community-based family support services, family preservation services, time-limited reunification services, and adoption promotion and support services. This act extends this funding source through 2016, but does not change the statutory funding limit of \$345,000,000. The allotment procedures for individual states remain the same and are found in the Social Security Act (Section 433 and Section 434).

The Promoting Safe and Stable Families Program, as enacted in the Social Security Act, also allowed for up to \$200,000,000 per fiscal year for discretionary grants. CFSII also extends these discretionary grants through 2016. These discretionary grants have three target areas: 1) evaluation, research, training, and technical assistance; 2) state court improvements; and 3) Indian tribes or tribal consortia.

One minor change is that the Social Security Act Section 431 (a) (5)(6) are amended to include a consistent definition of "Indian Tribe" and "Tribal Organization" with the way these terms are defined in the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

#### Modification: State Plan

The Social Security Act (Section 432) contains the State Plan requirements for the Promoting Safe and Stable Families Program. CFSII adds a state Plan requirement of describing how the State identifies which populations are at the greatest risk of maltreatment and how services are targeted to the populations. Given this requirement, States will need to provide statistical data regarding maltreatment that identifies target populations and a description of how abuse-related services target these populations.

#### Modification: Family Support Services

CFSII restates the definition of "Family Support Services" from the Social Security Act (Section 431(2)), but adds language to one of the stated purposes. In regard to enhancement of child development purpose, it specifically added "mentoring" as an allowable activity.

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## Modification: Time-Limited Family Reunification Services

CFSII adds two additional services to the list of potential reunification services for children in placement and their families:

1. Peer-to-peer mentoring and support groups for parents and primary caregivers.
2. Services and activities designed to facilitate access to and visitation of children by parents and siblings.

The addition of these items opens up funding opportunities for support groups and visitation programs under the category of reunification services. As with all of the services identified, this funding stream is only open during the 15-month period that begins on the date a child is placed into a foster care setting.

## Modification: Annual Submission of State Reports to Congress

CFSII includes additional annual state reporting requirements. The required changes are as follows:

- The inclusion of national totals for each required element.
- Actual and planned spending for each service category for all Title IV-B funding.

These reports are sent to Congress (i.e. the House Committee on Ways and Means and the Committee on Finance of the Senate) by September 30th of each year. These reports will also be posted on the Department of Health and Human Services Web site.

In addition to the annual report, CFSII requires the Government Accountability Office (GAO) to submit a report within a year of the bill's enactment that identifies alternative sources of funding for all Title IV-B services. The report is also to assess the needs of families eligible for programs under Title IV-B and the identification of any under served communities. Information specifically asked for in this report is the following:

- The supports available to caseworkers to appropriately investigate and safely manage caseloads.
- The length of wait time for families to receive substance abuse and other preventative services.
- The number of families on waiting lists for services and the effect of the delay on healthy, successful reunification outcomes.

For agencies that provide substance abuse, prevention and/or reunification services, the data needed by the GAO should be available if requested.

## Modification: Grants for Targeted Purposes

Two Promoting Safe and Stable Families grants for targeted purposes are maintained at a \$20 million level for each program. These programs include

- Support for Monthly Casework Visits
- Regional Partnership Grants

CFSII includes some language changes in regard to the Support for Monthly Casework Visits targeted grant. The current language states that the money is to "support" monthly caseworker visits. This was altered to state that the purpose is to "improve the quality of" these visits.

Regarding Regional Partnership Grants, CFSII removes the language that gave greater weight to applicants with methamphetamine issues and broadened the language to state "substance abuse." CFSII also states that grants are awarded for no less than two fiscal years and not more than five fiscal years (with a potential for a two-year extension). It also specifies that grantees may be awarded more than one grant. Changes were also made to the matching requirements that add a sixth fiscal year requirement (70 percent) and a seventh year requirement (65 percent). There is also now a 5 percent limit on Health and Human Services administrative fees for the grant program.

The Department of Health and Human Services is mandated to produce outcomes-based reporting by December 31, 2012 and December 31, 2017 on the effectiveness of Regional Partnership Grants.

## Modification: Court Improvement Program

CFSII adds language to the Court Improvement Program section of the Social Security Act (Section 438). The addition language is as follows:

- The addition of "concurrent planning" in addition to safety, well-being, and permanency for improvements related to the Adoption and Safe Families Act of 1997.
- The addition of "family engagement in court processes" as an area of focus for implementing court improvement projects. This includes training in family engagement for judges, attorney, and other legal personnel in child welfare cases.

CFSII streamlines the number of necessary applications for multiple types of grants to one, regardless of the number of purposes the highest state court is applying for funds to address. The funds are divided categorically by the purpose of the grant and the money reserved for court improvement. The breakdown is as follows: \$9 million to conduct assessment and implement court improvements, \$10 million for improving safety, permanency, and well-being needs of children in a timely manner, \$10 million for training court and legal personnel, and \$1 million for tribal courts. It is also specified that any discretionary funds be used for court assessments and implementation projects.

## Modification: Funding Not Extended

CFSII does not reauthorize the discretionary Mentoring Children on Prisoners grants (zeroed out of the budget in 2011).

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## COMMON PROVISIONS - SUBPART 3

CFSII adds several provisions to the current Social Security Act by adding a Subpart 3 to Title IV-B, called "Common Provisions." The specific sections added involve data standardization and provisions related to foster care or adoption.

### Modification: Data Standardization for Improved Data Matching

CFSII requires the Department of Health and Human Services to work with the Office of Management and Budget (OMB) to designate standard data elements for any category of information required under Title IV-B. These data elements are to be nonproprietary and interoperable.

### Modification: Provisions Relating to Foster Care or Adoption (Amendments to the Case Plan Section of IV-E Requirements)

Regarding the educational stability of foster children in Section 475(1)(G) of the Social Security Act, the word "each" was added prior to the word "placement" in two sections to emphasize that for youth that experience multiple placements, the requirements in this section are applicable to each placement. This pertains to the educational stability assurances put in place with the Fostering Connections legislation.

CFSII adds a section pertaining to the subject of identity theft for foster children. This is a new Title IV-E requirement for adolescents in foster care with a two-step mandate: 1) provide the credit report; and 2) provide any needed assistance in interpreting and resolving any inaccuracies with the report (if any).

### Modification: Adoption

In the Title IV-E section of CFSII, there is a requirement for states to document their savings from de-linking adoption assistance payments from the outdated Aid to Families with Dependent Children eligibility criteria that occurred with the Foster Connections legislation. Specifically, the state must say how the money was spent; CFSII clarifies that the money may be spent on post-adoption services.

## TITLE II - CHILD WELFARE DEMONSTRATION PROJECTS

Title II of CFSII renews the authority of Health and Human Services (HHS) to approve demonstration projects designed to test innovative strategies in state child welfare programs. These child welfare demonstration projects are focused on demonstrating improved outcomes for children and families through Title IV-E waivers. The Act authorizes 10 new Title IV-E waivers per year – not including current waiver extensions.

The amount of the waiver is based on the prior two years of federal, state and local spending. The duration of the waiver projects can be no more than five years.

Current waiver recipients include

- Florida (under original waiver – 2012)
- California (under original waiver – 2013)

- Indiana (under short-term extension – 2011)
- Ohio (under 5-year extension – 2015)
- Oregon (under 5-year extension – 2016)

### Modification: Conditions for State Eligibility

A new demonstration project may be approved for any of the fiscal years 2012 – 2014 if it satisfies the following conditions:

1. The state demonstrates that the project is designed to accomplish one or more of the following goals:
  - a. Increase permanency for all infants, children, and youth by reducing the time in foster placements when possible and promoting a successful transition to adulthood for older youth.
  - b. Increase positive outcomes for infants, children, youth, and families in their homes and communities, including tribal communities, and improve the safety and well-being of infants, children, and youth.
  - c. Prevent child abuse and neglect and the re-entry into foster care.

If addressing an identified goal from above (a-c), the state may elect to establish a demonstration program for "Long-Term Therapeutic Family Treatment Centers." This is defined as "a State licensed or certified program that enables parents and their children to live together in a safe environment for a period of not less than 6 months and provides, on-site or by referral, substance abuse treatment services, children's early intervention services, family counseling, legal services, medical care, mental health services, nursery and preschool, parenting skills training, pediatric care, prenatal care, sexual abuse therapy, relapse prevention, transportation, and job or vocational classes leading to a secondary school diploma or a certificate of general equivalence."

This would permit foster care maintenance payments to be made under Title IV-E to a Long-Term Therapeutic Family Treatment Center on behalf of a child residing in the center.

Also, programs will be considered that address domestic violence (specifically programs that identify and address domestic violence that endangers children and results in the placement of children in foster care).

2. The state demonstrates readiness.

The State must submit a narrative description (as part of the application process) of the State's capacity to effectively use the authority to conduct a demonstration project by identifying changes the State has made or plans to make in policies, procedures or other elements of the State's child welfare program that will enable the State to successfully achieve the goal or goals of the projects.

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## 3. Demonstrate Implemented or Planned Child Welfare Program Improvement Policies

The state must demonstrate that it has implemented, or plans to implement (within three years of the date of the demonstration project application or two years from approval – whichever is first) at least two child welfare program improvement policies:

At least one of these items needs to be a policy not previously implemented as of the date of the demonstration project application. The demonstration project may be terminated after three years if the state has not made significant progress in implementing child welfare policy improvements.

- a. A Foster Child Bill of Rights (with specific language as noted in the legislation).
- b. The development and implementation of a plan for meeting the health and mental health needs of children in foster care.
- c. The implementation of Kinship Guardianship Assistance agreements.
- d. Institute changes to the definition of “child” to be more inclusive.
- e. Develop and implement a plan regarding the reduction and appropriate use of congregate care settings.
- f. Increase the number of siblings that are together in all placement settings.
- g. Develop and implement a plan to improve the recruitment and retention of high quality foster family homes. Supports for foster families under such a plan may include increasing maintenance payments, expanding training, respite care, and other support services for foster parents.
- h. Transition age services including appropriate access to cell phones, computers, and opportunities to get a driver’s licenses, sibling placement notification, and assistance with post-secondary education.
- i. Transition age services that focus on family connections.
- j. The establishment of strategies to prevent placement and provide permanency (i.e. family finding, kinship navigator programs, etc.).

### Duration

These projects may not run for more than five years (unless the Secretary allows for continuation).

### Application

Waiver applications are submitted to the Secretary (on any form that the Secretary may require), which includes

1. Project description that includes geographic area, population served, and the services that would be provided as part of the project.
2. A statement of the period during which the project would be conducted.
3. A discussion of the project benefits (compared to a continuation of activities under the current approved State plan or plans).
4. An estimate of the costs or savings of the proposed project.
5. A statement of program requirements that would require a waiver for the project to be implemented.
6. A description of the proposed evaluation design for the project.
7. An accounting of any additional Federal, State, and local investments made, as well as any private investments made in coordination with the State, during the two fiscal years preceding the application to provide the services described in the Project Description, and an accounting of that same spending for each year of an approved demonstration project.
8. Any additional information as the Secretary may require.

Demonstration project evaluation is a requirement of the new legislation. The evaluation must be done by an independent contractor using an evaluation design approved by the Secretary. The evaluation must provide for

- A comparison of service delivery methods under the project (as compared to the current State plan or plans) with respect to efficiency, economy, and any other appropriate measures of program management.
- Comparison of outcomes under the project (as compared to the current State plan or plans) with respect to effectiveness of the project and achieving program goals.

The state is required to submit a periodic report to the Secretary based on program activities and outcomes.

The Secretary may only approve projects that are “cost neutral” – the amount of the waiver may not exceed the amount of such funds that would be expended by the state under the state plans approved under part B and E of Title IV if the project were not conducted.



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