

## S. 1518 (Hatch) Improving Outcomes for Youth At Risk for Sex Trafficking Act of 2013”.

The bill includes three titles:

TITLE I—ADDRESSING THE RISKS THAT MAKE YOUTH VULNERABLE TO SEX TRAFFICKING AND OTHER NEGATIVE OUTCOMES

TITLE II—EMPOWERING OLDER YOUTH VULNERABLE TO DOMESTIC SEX TRAFFICKING AND OTHER NEGATIVE OUTCOMES

TITLE III—MISCELLANEOUS

### Title I

#### Section 101.

##### *Planning Requirements*

By January 1, 2015, states must demonstrate to HHS that it has developed (in consultation with the child protective services agency) policies and procedures for identifying and screening any child believed to be a victim of sex trafficking as defined by the Trafficking Victims Protection Act 25 of 2000 (TVPA) or who is at risk of being a victim of trafficking (states have an option to extend coverage to age 26 without regard to whether that individual is or was in foster care).

By January 1, 2016, the state must demonstrate to that it is implementing the policies and procedures developed.

#### Section 102

##### *Supporting Normalcy for Children in Foster Care*

New definitions under standards (Section 475 of the Social Security Act) include:

**“reasonable and prudent parent standard”** means the standard characterized:

*“by careful and sensible parental decisions that maintain a child’s health, safety, and best interests while at the same time encouraging the child’s emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, and social activities.”*

“Caregiver” means:

*“a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.”*

“Age or developmentally appropriate” means:

*“activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.” In the case of a specific child, the term means “activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the child’s cognitive, emotional, physical, and behavioral capacities.”*

#### *State Plan Amendments*

Amends the foster care state plan by requiring that all foster parents preparation include:

*“knowledge and skills relating to the reasonable and prudent parent standard for the child’s participation in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of a child’s cognitive, emotional, physical, and behavioral capacities, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, and enrichment activities, including sports, field trips, and overnight activities lasting 1 or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from social, extracurricular, and enrichment activities.”*

The bill amends the current requirements for foster care homes and institutions to include new standards on reasonable and prudent parenting standards and that the standards be applied to any foster family home or child care institution. The legislation requires, as a condition of any contract entered into by the State agency and a child care institution, the presence on-site of at least 1 official who is designated to be the caregiver authorized to apply the reasonable and prudent parent standard for decisions involving the child's access to age or developmentally appropriate items and participation in age or developmentally appropriate activities. This person must be provided with training in how to use and apply the reasonable and prudent parent standard in the same way a foster parent is provided training.

States are required to have policies and procedures to safeguard foster parents and private entities under contract by the State against frivolous lawsuits involving the application of the reasonable and prudent parent standard.

States may waive these standards only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care.

### Section 103

#### *Improvements to Another Planned Permanent Living Arrangement (APPLA)*

APPLA is eliminated as an option for children under the age of 16 and for other children who have a case plan with an Another Planned Permanent Living Arrangement, the following requirements shall apply:

- 1) At each permanency hearing held, the state agency has to document the intensive, ongoing, and unsuccessful efforts made by the agency to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent. This documentation must include efforts to utilize search technology to find biological family members for children in the child welfare system.
- 2) At each permanency hearing held, the court or administrative body appointed by the court conducting the hearing on the permanency plan for the child must do all of the following:
  - (A) Ask the child if the child wants to be adopted
  - (B) Make a judicial determination 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.
  - (C) Make a new determination and submit findings that another planned permanent living arrangement (APPLA), as of the date of this hearing, the best permanency plan for the child.
  - (D) Identify the barriers to permanency plans other than APPLA.
  - (E) Require the state agency to document at the next hearing held with respect to the child the intensive, ongoing, efforts made by the agency to address barriers and allow a different permanency plan for the child.
- 3) The State agency shall appear before the court or administrative body not less frequently than every 6 months while the child is placed in APPLA—and indicate
  - A) The steps the agency is taking, including with respect to reducing barriers such as paper work or other documentation, to ensure the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including social events; and
  - B) That an individual, other than a caseworker, is the caregiver for the child for purposes of the reasonable and prudent parent standard, including the authority for signing permission slips and giving informal permission for the child to participate in age or developmentally appropriate activities, including social events.

### *Child Support Collected*

For young people in APPLA, any child support that is collected by the state shall be deposited in an account established in the child's name at an insured depository bank or insured credit union. The funds shall be used at the discretion of the child (and, until the child attains age 18, in consultation with the child's caregiver) for payment of fees or other costs attributable to the child's participation in age or developmentally appropriate activities.

For youth 18 or older in foster care, amounts collected by the state as child support shall be paid to the child without any reimbursement to the Federal Government for Title IV-E foster care reimbursements as is currently required.

### Section 104

#### *Restrictions on Federal IV-E Reimbursement for Placement into Residential Care for Certain Children and Size Limitations on Foster Family Homes*

If a child in foster care is under age 13 is placed in a child care institution or an emergency group setting that is expected to last for more than 15 days, or any other setting that is not a foster family home, the State agency must appear before a court and verify that—

- (I) a family group decision making (FGDM) meeting was held at which it was determined that such placement is in the best interests of the child; or
- (II) efforts have been made (by an individual experienced in using intensive search technology) to locate relatives or other potential guardians for the child but that those ongoing family finding efforts have been unsuccessful in finding an alternative placement; and

Within 90 days of placement of the child in the child care institution or other setting that is not a foster family home, and every 90 days thereafter while the child remains in such setting, the state agency shall—

- (I) reconsider whether such placement continues to be in the best interests of the child and supports the ongoing development of the child; and
- (II) ensure that the child's case plan is updated to reflect the result of that reconsideration.

### *Foster Family Home Defined*

Foster Family Home means the home of an individual or family licensed/approved by the state in which it is meeting the standards established that provides 24-hour substitute care for children placed away from their parents or other caretakers.

It provides such care for—

- (I) not more than 3 foster children who have not attained age 2;
- (II) not more than 4 foster children who have attained age 2 but have not attained age 5; and
- (III) not more than 4 foster children who have attained age 5 but have not attained age 13; and
- (IV) not more than 4 foster children who have attained age 13.

The maximum number of children permitted under this provision may be decreased by a state but may only be increased by a state for any 1 or more of the following reasons:

- (I) To allow siblings to remain together,
- (II) to allow a child with an established, meaningful relationship with the family, such as a former foster child, to remain with the family,
- (III) to allow a family to provide care to a child who has a severe emotional or physical disability.

The definition of congregate care placement means placement in a child care institution or any other setting that is not a foster family home. The term does not include placement in any of the following:

- (I) A setting specializing in providing prenatal or post-partum supports for youth.
- (II) A setting specializing in providing supports for parenting teens.
- (III) In the case of a child 18 years of age or older, a setting in which the child is living independently.
- (IV) In the case of a child with a severe physical disability, an institution specializing in treatment for children with disabilities.
- (V) An emergency placement in a setting that is not a foster family home that does not exceed 15 days.

*Reduction in the Federal Reimbursement For Settings Other than Family Foster Care*

No Federal Title IV-E foster care reimbursements shall be made for maintenance payments for:

- A child who less than 13 years of age, and has been in care for *more* than 15 consecutive or nonconsecutive days;
- A child who is 13 years of age or older, *more than* 365 consecutive days or 548 nonconsecutive days, whichever occurs first.

HHS will make determinations relating to the age of children and length of congregate care placements on the basis of the most recent best data available.

This section shall take effect on October 1, 2015.

Section 105

*The Social Services Block Grant (SSBG, Title XX of the Social Security Act) is repealed with the \$ 1.7 billion in funds redirected.*

Title IV-B part 1, Child Welfare Services funding currently authorized through 2016 with up to \$325 million in annually appropriated funds is amended to increase to \$725 million. Of these funds, HHS shall reserve \$400,000,000 for payments to States from allotments under a new section 423(f). The \$400 million is divided into two \$200 million totals for the exploitation prevention fund and normalcy support amount.

The Exploitation Prevention Fund:

In addition to other activities to prevent the neglect, abuse, or exploitation of children, funds made available from the exploitation prevention amount may be used for any or all of the following:

- (I) Establishment of a hotline uniquely prepared to receive calls from youth in foster care, or other youth, concerning neglect, sexual or physical abuse, or exploitation, and whose staff, which may include trained foster care alumni, are equipped to provide guidance and reassurance related to reporting neglect, abuse, or exploitation, and are able to offer other supports (including appropriate referrals for mental health or law enforcement services).
- (II) Healthy relationship training for youth.
- (III) Efforts to identify prior child sex abuse among children and youth brought to the attention of the child welfare agency and to provide treatment and services, including mental health treatment needed due to being trafficked, to enable children and youth to recover, including through support of nonprofit agencies, such as children's advocacy centers, that provide comprehensive treatment and services to child victims.
- (IV) Activities related to identifying and preventing labor trafficking of children in foster care.
- (V) Treatment for victims of trafficking and sexual abuse that recognizes the pervasiveness of trauma and makes a commitment to identify and address it early, seeks to understand the connection between presenting symptoms and behaviors and an individual's past trauma history, and provides trauma-specific treatment that is developmentally focused and specialized to address complex trauma-related consequences.

Funds made available from the normalcy support amount of a state allotment shall be used for any or all of activities:

- Reasonable and prudent parent standard activities that include:
  - Recruitment of foster parents and training for caseworkers on how to retain and support the foster families as assigned to them through the provision of an ongoing relationship with those families
  - Training for foster parents on the reasonable and prudent parent standard.
  - Reviewing State licensing standards and other State or local safety certifications or provisions to ensure that such standards, certifications, and provisions do not impede the ability of children in foster care to participate in age or developmentally appropriate social, enrichment, and extracurricular activities.
  - Removing barriers to full application of the reasonable and prudent parenting standard and to normalcy for children in foster care.
  - Developing a list of age or developmentally appropriate activities and other information to assist caregivers in the application of the reasonable and prudent parenting standard.
  - Reviewing liability provisions in the State to clarify the ability of caregivers to apply the reasonable and prudent parenting standard while continuing to ensure their accountability.
  - Training on identification of prior sexual abuse, keeping children safe from sexual abuse, and keeping children and youth safe from trafficking.
- To pay directly, or to reimburse, payment for any trips fees, uniforms, materials, or costs associated with the participation of children in foster care, or, at the discretion of the State, in kinship care or guardianship arrangements, in age or developmentally appropriate activities, including entertainment or recreational activities that are age or developmentally appropriate and typical for children in the general public, to pay for costs associated with permitting age or developmentally appropriate access of children in foster care to cell phones and computers, and to pay for costs associated with providing transportation for children in foster care to and from part-time employment.
- Activities related to complying with the requirements of the education requirements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110–351).

States unable to utilize all their allotment for these two funds will have the funds reallocated.

Tribes will be eligible for an allotment under these funds.

*Title IV-B part 2, the Promoting Safe and Stable Families Program*

Title IV-B part 2, Promoting Safe and Stable Families (PSSF) funding currently authorized through 2016 with a combination of up to \$200 million in annually appropriated and \$345 in mandatory funds for a possible total of \$545 million. The mandatory funding total increases from \$345 million to \$1,095 billion for each of fiscal years 2015 through 2016.

Of this increase:

- \$200 million is re-directed for residential family treatment programs (currently funded through a \$20 million substance abuse grant),
- \$150 million more for court improvement programs (currently funded at approximately \$30 million),
  - to coordinate between court, child welfare, law enforcement, and social service agencies the recruitment, encouragement, and retention of foster and adoptive parents, guardians and relative caregivers who to meet the reasonable and prudent parent standard;
  - to ensure that courts encourage and facilitate participation in age or developmentally appropriate activities by youth in foster care and enhance the opportunities for youth to make positive connections with peers, siblings and caring adults

- to provide for the training of court, child welfare, law enforcement, Court Appointed Special Advocates, and social service agencies personnel on the identification, prevention, and intervention of domestic sex trafficking
- \$40 million for post-permanency services for adoption, reunification and guardianships,
- \$15 million for family connections grants,
- \$40 million for Therapeutic funds to provide services to parents and foster families that are similar to the services provided in therapeutic foster care programs for parents and foster families, and
- \$49 million for technical assistance by HHS to address sex trafficking.

PSSF definitions are amended to include residential family treatment programs, intensive family finding and prevention of domestic violence in family preservation services.

Intensive family-finding are defined as efforts that utilize search technology developed by public or private entities and coordinated efforts with public and private entities to locate and reestablish relationships with biological family members or other guardians for children in the child welfare system, and once identified, work to reestablish those relationships and explore ways to find a permanent family placement for the children.

The term ‘residential family treatment program’ means a program that enables parents and their children to live 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, medical, and mental health services, nursery and pre-school, and other services that are designed to provide comprehensive treatment that supports the family.

#### *TANF Transfer Authority*

With the elimination of SSBG states will lose their ability to transfer the more than \$1 billion of TANF they have transferred into SSBG in recent years. SSBG, in addition to the funding it currently provides to child welfare services, also provides significant funds for disability services, adult protective services (both elderly and on-elderly) and some child care.

The legislation allows up to 30 percent of their TANF block grant

- To develop, strengthen, and carry out programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation under section 721 of the Older Americans Act of 1965.
- To carry out a State program pursuant to the Child Care and Development Block Grant Act of 1990.
- To provide special services for persons with developmental or physical disabilities, or persons with visual or auditory impairments, to maximize the potential of such persons and to enable such persons to live in the least restrictive environment possible. Such services may include personal and family counseling, respite care, family supports, recreation, and transportation, aid to assist with independent functioning in the community, training in mobility, communication skills, the use of special aids and appliances, and self-sufficiency skills. Residential and medical services may be included only as an integral but subordinate part of such services.

While this transfer authority is now new for child care, this would allow the use of TANF funds beyond the current purpose of TANF funds that require funds only be used for families with children.

#### Section 106

##### *Use of Training Funds*

The current restrictions on the use of Title IV-E training funds as it relates to the AFDC eligibility link do not apply in the use of training funds related to identifying and screening youth at risk sex trafficking and the reasonable and prudent parenting standards.

#### Section 107

##### *Data and Reports*

HHS is directed to adjust current data collection information in the annual Adoption and Foster Care Analysis and Reporting Systems (AFCARS) as it relates to the placement of children in child caring institutions.

- the number of children in such placements and their ages, including separately, the number and ages of children who have a permanency plan of another planned permanent living arrangement;
- the duration of the placement in such settings (including for children who have a permanency plan of another planned permanent living arrangement);
- the types of child care institutions used (including, but not limited to, group homes, residential treatment, shelters, or other congregate care settings);
- with respect to each child care institution or other setting that is not a foster family home, the number of children in foster care residing in each such institution or non-foster family home; and
- any clinically diagnosed special need of such children;

The annual data is to include information on children in foster care who are pregnant or parenting teens.

The Government Accountability Office (GAO) is directed to conduct a study that reviews state placements of children at risk for foster care placement and of children in foster care in emergency and non-emergency shelter care, and, not later than 1 year after the date of enactment of this Act, submit a report to Congress that includes the following:

- Information relating to the prevalence of such placements
- The Federal and State expenditures for such placements for the most recent year for which data is available.
- Information relating to the length of placements in shelter care.
- With respect to children for who shelter care is the initial placement for the child, an analysis of the effect of that placement on the permanency outcomes for such children.
- Such additional information, including recommendations for administrative or legislative action, as the Comptroller General determines appropriate.

## Title II

### Section 201

#### *Empowering Foster Youth Age 14 and Older in the Development of Their Own Case Planning and Transition*

Case plan requirements under Title IV-E are amended with a requirement that for children 14 and older the permanency plan required for the child and any revisions or additions to such plans, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not the child's foster parent or caseworker.

In such cases a state may reject an individual selected by a child to be a member of the case planning team at any time if the state has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.

Youth aged 14 or older are to be provided a list of rights which is a written document that describes the child's rights with respect to education, health, visitation, and court participation, and to staying safe and avoiding exploitation and a signed acknowledgment by the child that the child has been provided them with a written copy of such document.

Not later than 2 years after the date of enactment of this Act, HHS shall submit a report to Congress regarding the implementation of these amendments.

### Section 202

#### *Ensuring Foster Youth Have Birth certificates, Social Security Cards and Bank Accounts*

Upon discharge all youth in care are to be provided with an official birth certificate, a social security card, and a fee-free (or low-fee) transaction account established in the child's name at an insured depository bank or credit union. States will be penalized with a reduction in their federal matching administrative funds if they fail to meet these requirements. The penalty shall equally 1 percent for every ten youth who are not assisted in this way with a maximum of up to twenty-five percent.

### Section 203

#### *Education Improvement for Older Youth*

The current education vouchers for youth in foster care are expanded and extended to the age of 26 from the current age 23 and youth may participate for up to 5 years regardless of whether they are consecutive.

HHS and the Education Department shall jointly develop and administer an information clearinghouse that contains the information regarding the use of vouchers and an information clearinghouse shall be established. The clearinghouse shall provide information on:

- Federal financial aid available for youth
- Any special Federal financial aid rules that may apply to youth, including treatment as an independent student in accordance with the Higher Education Act of 1965
- The Free Application for Federal Student Aid (FAFSA), including questions and provisions specific to such youth.
- Any Federal post-secondary education supports or services available to such youth, including through the Federal TRIO programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.
- Demonstration projects provided with support or assistance from the Fund for the Improvement of Postsecondary Education.
- Vouchers available for education and training under the John H. Chafee Foster Care Independence Program
- Such additional information as the Secretaries determine appropriate.

The information clearinghouse shall be established and accessible by the public not later than the date that is 6 months after the date of enactment of this Act. \$1,000,000 is appropriated to carry this out for fiscal year 2015 and each fiscal year thereafter, to remain available until expended.

The state shall provide children in foster care for whom adoption assistance payments or kinship guardianship assistance payments are made under section 473, and children who were formerly in foster care with notice of, and access to, the information clearinghouse.

### Section 204

#### *Increased Funding for Housing Assistance for Victims of sex Trafficking and Other Youth*

The John H Chafee Foster Care Independence Program is amended and re-title by striking "Independence" and replaced with "Successful Transition to Adulthood." It includes \$440 million in new funds for housing vouchers and \$60 million for education and training vouchers. In addition the purposes are amended:

- to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 16 and 26 years of age so that those individuals can take on increasing and age or developmentally appropriate responsibilities and have the ability to form and maintain appropriate and healthy relationships; and
- to provide housing assistance to youth who have aged out of foster care, who have not attained age 26, and who are pregnant, parenting, or a victim of sex trafficking as defined in the Trafficking Victims Protection Act of 2000 or a severe form of trafficking in persons.

A new report to Congress on youth in care including information on age of entry, length of stay, case goals, an analysis on differences between age of foster care eligibility and outcomes, and various outcomes.

HHS shall provide best practices in regard to providing housing for youth in care, parenting and services for teen parents, and sex trafficking.

#### Section 205

##### *Caseworker Visits*

Monthly caseworker visits can occur electronically for foster youth 18 or older.

### **Title III Miscellaneous**

#### Section 301

##### *A pilot program for therapeutic foster care is created*

HHS shall conduct a pilot program under which, in the case of a child who is in a foster family home, for whom monthly foster care maintenance payments are made under this section, or on whose behalf adoption assistance payments or kinship guardianship assistance who is receiving therapeutic foster care, a state shall be authorized to divide the monthly foster care maintenance payment, adoption assistance payment, or kinship guardianship assistance payment (as the case may be) in such portions as the state, in consultation with the Secretary, may elect, and to pay such portions to the child's foster or adoptive parent or parents, or relative guardian, and the therapeutic foster care program, respectively.

Not more than 10 States shall be approved to participate in the pilot program established under this subsection. An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B may be approved to participate in the program and if so approved, shall count towards the state participation limit.

HHS shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the pilot project established under this section. Each report submitted shall include an analysis of the extent to which the pilot program encourages placement stability for children in therapeutic foster care, together with such other information and recommendations as the Secretary determines appropriate.”

#### Section 302

##### *Presidential Award for Excellence*

The President, in consultation with HHS, may make Presidential awards to individuals contributing to excellence in the field of child welfare, including child welfare case workers, child welfare advocates, foster parents, and foster youth.

The Governor of each State, in consultation with youth representatives and representatives of youth advocacy boards, shall nominate 2 individuals each year for the award.

At least 1 of the nominees for a year shall be a child welfare case worker. A nominee shall not be a previous recipient of an award under this section. In any year, not more than 30 awards may be made under this section. The President, or his designee, shall present the awards at an appropriate ceremony in Washington, D.C.

#### Section 303

##### *Budgetary Effects*

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.