



Side-by-Side Comparison of Child Welfare Provisions in Recent TANF Reauthorization Proposals

By Rutledge Q. Hutson and Theresa Lueke (Updated April 29, 2003)

This document is part of a larger project of CLASP and the Center on Budget and Policy Priorities, which includes side-by-sides on many aspects of proposed Temporary Assistance for Needy Families (TANF) reauthorization legislation. This document summarizes and compares the work-related provisions in current law and the following TANF reauthorization proposals:

- A bill introduced by Rep. Pryce (R-OH) that passed in House of Representatives (H.R. 4) on February 13, 2003; a bill introduced in the Senate by Sen. Talent (R-MO) (S. 5) on February 14, 2003; and *Working Toward Independence*, a 36-page plan released by the White House on February 26, 2002. (***Provisions in the Talent bill and the Bush Administration's plan that differ from the House bill are indicated in bold italics.***)
- The Democratic substitute to H.R. 4 that received the most votes, offered in the House of Representatives by Reps. Cardin (D-MD), Woolsey (D-CA), and Kind (D-WI).
- The Work Opportunity and Responsibility for Kids Act of 2002 approved by the Senate Finance Committee (H.R. 4737.RS) during the 107th Congress on June 26, 2002.
- The Personal Responsibility and Work Opportunity Reconciliation Act Amendments of 2003 (S. 367) introduced by Sen. Rockefeller (D-WV) on February 12, 2003, and referred to the Senate Finance Committee.

In addition, the child welfare related provisions of the following bills are summarized at the end of this document:

- The Chance to Succeed Act (H.R. 624 and S. 316) introduced by Rep. Stark (D-CA) in the House and introduced by Sen. Corzine (D-NJ) and Sen. Kennedy (D-MA) in the Senate on February 5, 2003.
- The Racial Equity and Fair Treatment Act of 2003 (H.R. 692) introduced by Rep. Johnson (D-TX) on February 11, 2003
- The Building Secure and Healthy Families Act of 2003 (H.R. 706) introduced by Rep. Stark (D-CA) on February 11, 2003
- The Self Sufficiency and Accountability Act of 2003 (S. 263) introduced by Sen. Bingaman (D-NM) on January 30, 2003
- The Fair Treatment and Due Process Protection Act of 2003 (S. 770) introduced by Sen. Feingold (D-WI) on April 2, 2003

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107th Congress)	Sen. Rockefeller (S. 367)
<p>Kinship Caregivers</p> <p><i>Also see Stark (H.R. 706) at the end of this document.</i></p>	<p>Kinship caregivers are subject to time limits and work requirements if they are part of the family grant. They are not subject to time limits and work requirements if the grant is based solely on the needs and income of the child (a child-only grant).</p>	<p>Current law.</p>	<p>Current law.</p>	<p>Current law.</p>	<p>Current law.</p>
<p>Fiscal Links Between Child Welfare and TANF</p>	<p>To be eligible for a TANF block grant, a state must certify that it will continue to operate its foster care and adoption assistance program.</p> <p>Eligibility for federal foster care and adoption assistance is tied to the AFDC eligibility criteria in place on July 16, 1996.</p> <p>TANF purposes permit spending on an array of child welfare services. For example, the first purpose of TANF is to "provide assistance to needy families so that children may be cared for in their own homes</p>	<p>Current law, except as noted below.</p> <p>Modifies the grandfather clause to permit a state to use TANF funds for any purposes or activities previously authorized under its EA plan. This arguably broadens the authority of states to spend TANF on any child welfare (or juvenile justice) activity if the state was previously authorized to spend EA on some child welfare (or juvenile justice) activity.</p> <p><i>(The Bush Administration's plan did not modify the grandfather clause.)</i></p>	<p>Current law.</p>	<p>Current law, except as noted below.</p> <p>Beginning in FY 04, permits an Indian tribe or intertribal consortium to operate a foster care and adoption assistance program under Title IV-E and receive reimbursement for eligible costs directly from HHS.</p>	<p>Current law, except as noted below.</p> <p>Gives each state the option to increase the income and resource standards and methodologies of the 1996 AFDC criteria, up to the level of the income and resource standards and methodologies used in its current TANF plan, to determine eligibility for federal foster care and adoption assistance.</p>

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107th Congress)	Sen. Rockefeller (S. 367)
	or the homes of relatives.” Through a “grandfather clause,” a state is permitted to use TANF funds in any <i>manner</i> previously authorized under its Emergency Assistance (EA) plan.				
Collaboration Between Child Welfare and TANF	No specific provisions or requirements—although some collaboration efforts are underway in some states and localities.	Sets aside \$2 million per year for demonstration projects that seek to coordinate the provision of tribal child welfare and TANF services. <i>(The Bush Administration’s plan did not include this provision.)</i>	Current law.	Current law.	Current law.
Countable Activities Include Services to Address Barriers <i>Also see Stark (H.R. 624), Corzine-Kennedy (S. 316), Johnson (H.R. 692), Stark (H.R. 706), and Bingaman (S. 263) at the end of this document.</i>	Generally not. See side-by-side on work-related provisions for more details.	Yes, for up to 3 months in a 24-month period and for hours beyond the initial 24 hours, which must be comprised of “direct work.” See side-by-side on work-related provisions for more detail on countable activities. <i>(S. 5 requires that any activities, other than direct work activities, be “structured and supervised” to count</i>	Yes, counts participation in services designed to improve future employment opportunities, including substance abuse treatment, services to address sexual or domestic violence, and physical rehabilitation and mental health services for up to 6 months. See side-by-side on	Yes, states can count “rehabilitative” activities, including substance abuse treatment, mental health treatment, vocational rehabilitation services, adult basic education, and limited English proficiency services as full-time activities for up to 3 months out of 24 months, plus an additional 3 months if combined with work or job readiness	Increases the ability to count certain education and English as a Second Language activities, but not other activities to address barriers. See side-by-side on work-related provisions for more detail on countable activities.

¹The Social Service Block Grant (SSBG) is also a major federal source of funding for child welfare services. This funding stream was reduced by the 1996 welfare law and states are permitted to transfer a portion of their TANF block grants to SSBG. For more detail on the current law and the SSBG provisions in the other TANF proposals, see the side-by-side on funding provisions.

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107th Congress)	Sen. Rockefeller (S. 367)
		<i>towards the participation rate.)</i>	work-related provisions for more detail on countable activities.	activities. After 6 months, these activities may count toward hours in excess of first 24 hours of participation. See side-by-side on work-related provisions for more detail on countable activities. In addition, the bill gives states the option to exempt those caring for a disabled child or other relative from the work requirements. The bill caps the use of this exemption at 10% of the current year or prior year average caseload.	
Assessment for Barriers <i>Also see Stark (H.R. 624), Corzine-Kennedy (S. 316), Johnson (H.R. 692), Stark (H.R. 706), and Bingaman (S. 263) at the end of this document.</i>	Not specifically. The initial assessment is of recipients' skills, prior work experience, and "employability." The latter assessment may detect barriers.	Requires assessment "in the manner deemed appropriate by the State" of skills, prior work experience, and "employability." As with current law, this assessment may detect barriers. <i>(The Bush Administration's plan appeared to eliminate the assessment provision.)</i>	Yes, amends assessment provision to require, for each head of household, an assessment of "skills, prior work experience, and circumstances related to the employability of the recipient, including physical or mental impairments, proficiency in English, child care needs, and whether the recipient is a victim of domestic violence."	In addition to current law, requires states to screen and assess whether parents/caretakers receiving assistance face barriers to employment and requires these recipients to participate with the state in development of an Individual Responsibility Plan (IRP). The IRP must address the issue of child well-being and, if appropriate, adolescent well-being. The bill provides \$12 million over 4 years (FY 03-FY 06) to help states	Continues current law and also requires child well-being assessments. See side-by-side on work-related provisions for more detail on assessments. Also provides funds to states to create an advisory panel to improve the states' policies and procedures for assisting TANF recipients with barriers to work.

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107th Congress)	Sen. Rockefeller (S. 367)
				<p>implement new universal engagement rules. Among other purposes, these funds can be spent on training for and quality improvement of TANF agency staff and on establishing an advisory panel on improving policies and procedures for assisting individuals with barriers.</p> <p>See side-by-side on work-related provisions for more detail on assessments.</p>	
<p>Sanction Review and Compliance Procedures</p> <p><i>Also see Stark (H.R. 624), Corzine-Kennedy (S. 316), Johnson (H.R. 692), Stark (H.R. 706), Bingaman (S. 263) and Feingold (S. 770) at the end of this document.</i></p>	No provision.	<p>No requirement to adopt particular procedures. However, states must describe in their plans any strategies they may be undertaking to address “services for struggling and noncompliant families, and for clients with special problems.”</p> <p>Requires states to impose sanctions if a family member fails to participate in the activities set forth in the “Family Self-Sufficiency Plan.” Specifically, the state must reduce the grant pro rata for a partial failure or for a failure that</p>	<p>Yes. A state may not impose a sanction unless it has:</p> <ul style="list-style-type: none"> • attempted at least twice to notify the person of the impending sanction, the amount of the sanction, the length of time during which the sanction would be in effect, and the steps required to come into compliance or to show good cause for noncompliance; • afforded the person an opportunity to meet with a caseworker and explain the noncompliance; and 	<p>Yes. Requires review of IRP prior to imposition of sanction and requires state to make a good-faith effort to consult with the family as part of the review.</p> <p>Also, requires HHS to support a random assignment study comparing the effects of full-family sanctions, partial sanctions, and other policies for increasing engagement in work activities.</p>	Requires HHS to promulgate best practice standards on appropriate procedures for imposing sanctions.

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107 th Congress)	Sen. Rockefeller (S. 367)
		<p>lasts less than 1 month. If the failure is total and lasts for at least 2 consecutive months, a full-family sanction is required for at least 1 month and thereafter until the individual comes into compliance. The full-family sanction requirement does not apply <i>during the first year</i> after enactment, <i>if</i> local government has an obligation to provide assistance under a constitutional or statutory provision that was in place prior to 1966.</p> <p><i>(The Bush Administration's plan did not require full-family sanctions.)</i></p>	<ul style="list-style-type: none"> • specifically considered (using screening tools developed in consultation with experts) whether various barriers to employment contributed to the noncompliance. 		

	Current Law	House-Passed Bill (H.R. 4), Sen. Talent (S.5), and Administration Plan	House Democratic Substitute to H.R. 4 (Rep. Cardin)	Senate Finance Committee Bill (H.R. 4737 RS) (from 107th Congress)	Sen. Rockefeller (S. 367)
Other Child Welfare Provisions	Requires states to consider giving preference to kin when placing children outside the home. Permits for-profit child care institutions to receive foster care maintenance payments.	Extends and expands waiver authority under the federal foster care and adoption assistance programs. It eliminates the limit on the number of waivers that can be granted and prohibits HHS from denying a waiver on the grounds that another state is trying a similar approach. <i>(The Bush Administration's plan did not address child welfare waiver authority.)</i>	Does not address.	Extends and expands waiver authority under the federal foster care and adoption assistance programs. It eliminates the limit on the number of waivers that can be granted to a state.	Does not address.

Stark (H.R. 624) and Corzine-Kennedy (S. 316): Chance to Succeed Act of 2003

- Permits satisfactory participation (as defined by the state) in activities to address barriers to count towards the participation rate for 6 months. If necessary, the 6-month period may be extended by the state for an additional period determined by the state, so long as the state periodically reassesses the appropriateness of the activities. Requires states to exempt families in which an individual is satisfactorily participating in such activities from the federal time limit.
- Requires two-stage assessment process:
 - The first stage includes:
 - screening for employability, education capacity, and related circumstances;
 - screening, by a trained caseworker, for potential barriers to work and program compliance;
 - at the option of the individual, a child care assessment and guarantee of safe, affordable, appropriate child care; and
 - at the option of the individual, an assessment of the job preparation needed to find a job that pays at least 200 percent of the federal poverty level.
 - The second stage includes:
 - at the option of the individual, comprehensive assessment by a qualified professional (participation in this assessment cannot be a program requirement);
 - development of recommendations (based on the comprehensive assessment), which are included in the IRP and which spell out the services the state will offer the individual and the individual's family; and
 - at the option of the individual, assessment of family members.
- Requires states to consult with experts who work with individuals facing different barriers, requires HHS to provide technical assistance, and provides funding for advisory panels to improve states' policies and procedures for assisting TANF recipients with barriers to work.
- Establishes pre-sanction review and conciliation process, which requires states to:
 - provide notice, at least twice, of the reason for, amount of, and duration of the impending sanction and the steps necessary to come into compliance; and
 - afford the individual or family the opportunity to meet with personnel from outside the agency, under contract with the agency, to determine whether the sanction is appropriate and whether the individual or family needs additional assessment or services.
- Establishes sanction parameters that prohibit sanctions if the needed screening, assessment, or services to address barriers were not available, but permits sanctioning if an individual or family opts not to take full advantage of the assessment process and is otherwise not complying with the state's work requirements.
- Establishes a post-sanction process, which requires states to:
 - provide periodic notice, for at least 6 months, of the reason for the sanction and the steps the individual or family needs to take to come into compliance;
 - reinstate benefits when a person comes into compliance for a reasonable time; and
 - provide notice at least 10 days before the end of a time-limited sanction explaining how the benefits will be reinstated.
- Requires states, on a one-time basis, to make reasonable efforts to notify individuals or families who were sanctioned in the past 5 years, and who did not resume receiving assistance at a later date, of the assistance, services, and supports they may be eligible to receive.

Johnson (H.R. 692): Racial Equity and Fair Treatment Act of 2003

- Allows participation in treatment or educational activities "to address a mental health problem, disability, substance abuse, or domestic or sexual violence" to count towards the participation rate.
- Amends assessment provision to require, for each head of household, an assessment of "skills, prior work experience, and circumstances related to the employability of the recipient, including physical or mental impairments, proficiency in English, child care needs, and whether the recipient is a victim of domestic violence." (See side-by-side on work-related provisions for more detail about changes to countable activities.)
- Requires that states notify recipients of all relevant legal rights, benefits, and services upon program entry, and thereafter on a semi-annual basis, both orally and in writing in the native language of the recipient at a 6th grade level and to train personnel in how to carry out the program consistent with rights. Increases state maintenance of effort (MOE) requirement by 5 percentage points for noncompliance.
- Requires states to notify individuals who have been or are at risk of being sanctioned that program requirements may be waived for "people dealing with a mental health, disability, substance abuse, domestic violence or sexual assault issue," that such individuals may request an assessment to identify needed services and that the information obtained in this process will remain confidential. Increases MOE by 5 percentage points for failure to provide such notice.
- Creates a pre-sanction review and conciliation process, which requires states to:
 - provide notice, at least twice, of the reason for, amount of, and duration of the impending sanction and the steps necessary to come into compliance or show good cause for non-compliance;

- afford the individual the opportunity to discuss the reason(s) for noncompliance with the caseworker or other individual who can determine whether to impose a sanction;
- consider, using screening tools developed in consultation with experts, whether the individual faces certain conditions, such as physical or mental impairment, domestic violence, or limited proficiency in English, that contributed to the noncompliance;
- provide an opportunity to appeal adverse decisions; and
- reduce a state's TANF grant by 5 percent for failure to comply with these provisions.
- Prohibits full-family sanction.
- Prohibits sanctions when:
 - an individual certifies that appropriate, affordable child care is unavailable for a child under 6 or a child with a disability or serious health condition; or a child 6 or older who lacks access to appropriate, affordable after-school or summer care;
 - an individual who "has a mental health problem, disability, or substance abuse problem or is a victim of sexual or domestic violence," if the individual is in the process of being assessed, has not been offered appropriate services, or cannot comply because of the need to seek medical, legal, or other services to address the situation;
 - an individual refuses to accept employment that does not pay the federal or state minimum wage; or
 - an individual certifies that he/she left or refused work because of discrimination.
- Prohibits states from refusing to accept an application for assistance at the time of application or from creating the impression that an application will not be unconditionally accepted (e.g., states may not require applicants to engage in certain activities before their applications will be accepted).

Stark (H.R. 706): Building Secure and Healthy Families Act of 2003

- Requires states to exempt kinship caregivers who are part of a family grant from federal work requirements and to exclude that family from the calculation of work participation rates. If the kinship caregiver is voluntarily working and the state assesses the needs of the family and provides or refers the family for appropriate services to meet those needs, the state may include the individual and family in its calculations of work participation rates.
- Requires states to make kinship caregivers eligible for any benefit or service to the same extent as other adult recipients of assistance.
- Revises the federal time limit to apply only to parents, not kinship caregivers, even when the relative caregiver's needs are included in the family grant.
- Adds to the assessment provision by requiring assessment of "potential barriers, including domestic or sexual violence, mental or physical health, learning disability, substance abuse, English as a second language, child care needs, insufficient housing, or transportation."
- Amends the current family violence option by requiring that:
 - all states coordinate with domestic or sexual violence coalitions in the development of policies and procedures;
 - states train caseworkers about the nature of domestic or sexual violence, the policies and procedures for dealing with domestic or sexual violence, and how to screen for and identify domestic or sexual violence;
 - trained caseworkers identify survivors of domestic violence, refer them to services, and modify or waive program requirements as necessary;
 - states maintain the privacy and confidentiality of client information; and that
 - states provide notice of impending sanctions and pre-sanction review to ensure that individuals are not being sanctioned when domestic or sexual violence is a significant contributing factor to noncompliance.
- Authorizes \$10 million annually through 2008, for efforts to identify and disseminate best practices for training, screening, and serving survivors of domestic or sexual violence.
- Creates a state option to count individuals receiving family violence services or waivers as being engaged in work.
- Includes as countable activities: caring for one's own child up to age 1 (or at state option age 3); and caring for one's child or other relatives with a serious health condition or disability, including attending appointments, service plan meetings, or training regarding the care of one's child or other relative with a serious health condition or disability.
- Provides that an individual caring for a child or other relative with a serious health condition or disability shall be deemed to be engaged in work and that months during which such care is provided do not count towards the individual's federal time limit.
- Modifies the time limit hardship exemption to permit states to exceed the 20 percent cap in order to grant good cause exemptions from the time limit for families that need continued assistance due to domestic or sexual violence.
- Prohibits the imposition of full-family sanctions when an individual fails to comply with program requirements. Instead, the provision requires sanction of the non-compliant individual.

Bingaman (S. 263): Self-Sufficiency and Accountability Act of 2003

- State plans must include a:
 - description of applicable work-related requirements, including criteria for determining activities adults required to participate are assigned to and procedures used to screen and assess barriers to employment, including physical or mental impairments, substance abuse, learning disabilities, domestic violence, inadequate or unstable housing, and very low skills;
 - description of applicable sanction policies including procedures in place to identify families who are unable to comply with program requirements due to barriers and procedures for providing services to those families rather than imposing a sanction on them;
 - description of methods state has adopted to identify barriers to work imposed by living arrangement, housing cost, and housing location and services and a description of the benefits available to help families overcome such barriers; and
 - description of how the state will provide a stable, professional workforce, including a description of the training planned to address cultural diversity, the rights of recipients under all relevant laws, the screening of recipients for serious barriers to employment, and the referral of recipients to all appropriate programs and services.

Feingold (S. 770): Fair Treatment and Due Process Protection Act of 2003

- Requires a pre-sanction review process that provides the individual or family with notice explaining the reason for the sanction; describing the amount and duration of the sanction and the steps required to come into compliance; informing the individual or family that assistance is available to help them come into compliance; and explaining that the family may appeal the decision (including an explanation of the steps necessary to pursue the appeal).
- Provides the individual or family with an opportunity to meet with the person conducting the pre-sanction review, which review shall include consideration of the following:
 - whether barriers to compliance exist;
 - whether the noncompliance resulted from failure to receive or have access to services previously identified as necessary;
 - whether changes to the individual responsibility plan should be made in order for the individual to come into compliance;
 - whether the individual has good cause for noncompliance; and
 - whether the state's sanction policies have been properly applied.
- Requires a post-sanction process that includes:
 - notice of the reason for the sanction and the steps the individual or family must take to come into compliance; and
 - resumption of the individual's or family's full assistance, services, and benefits once the individual complies for a reasonable period of time, or, at state discretion, at an earlier time period.
- Imposes penalties on states for failure to comply with these sanction procedures.