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Child Welfare: Recently Enacted Changes in Federal Policy

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Summary

This report summarizes changes enacted in federal child welfare policy during the 109th Congress. Most federal child welfare programs are authorized in Title IV-B and Title IV-E of the Social Security Act, and the bulk of the changes enacted amended programs in those parts of the law. These programs include Child Welfare Services, Promoting Safe and Stable Families, Court Improvement, and Foster Care and Adoption Assistance. Legislation amending these programs is typically reported by the House Ways and Means and Senate Finance Committees, and the programs are administered within the U.S. Department of Health and Human Services (HHS). Changes made to the Court-Appointed Special Advocates (CASA) program (Subtitle B of the Victims of Child Abuse Act), which were included in legislation reported by the House and Senate Judiciary committees, are also discussed. That program is administered within the Department of Justice (DOJ).

The changes enacted affect a broad spectrum of child welfare policies, ranging from who are eligible children and what are eligible costs for which states may claim reimbursement under the Title IV-E Foster Care and Adoption Assistance program to the provision of new support for services to children affected by a parent or caretaker's abuse of methamphetamine or other substances and to required collaboration between child welfare agencies and courts. The recently enacted laws also added a number of specific new requirements for state child welfare agencies. With regard to children in foster care, each state must have in place new or revised policies or procedures related to (1) the quality and quantity of caseworker visits; (2) consultation with medical professionals on health treatment; (3) placement of children across state lines; (4) verification of citizenship or immigration status; and (5) background checks of prospective foster and adoptive parents. Further, states are required to have in place policies or procedures enabling the agency to continue providing necessary services during a disaster.

The child welfare provisions of the seven laws providing for these changes are discussed in this report in order of their enactment. These laws are the Fair Access to Foster Care Act of 2005 (P.L. 109-113), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162), the Deficit Reduction Act of 2005 (P.L. 109-171), the Safe and Timely Interstate Placement Act of 2006 (P.L. 109-239), the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), the Child and Family Services Improvement Act of 2006 (P.L. 109-288), and the Tax Relief and Health Care Act of 2006 (P.L 109-432). This report will not be updated.

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Child Welfare: Recently Enacted Changes in Federal Policy

During 2005 and 2006, the 109th Congress made a number of changes to federal child welfare policy, which have recently been implemented or are set to be implemented in the near future. Most of these changes were made to the child welfare programs authorized under Title IV-E and Title IV-B of the Social Security Act. These programs primarily provide funding to state child welfare agencies to support services to families and children in their own homes (e.g. to provide services intended to keep children safely living with their parents), to provide foster care for eligible children who can no longer safely remain in their homes, and to provide adoption assistance for eligible children who are adopted out of foster care. These programs are administered by the Children's Bureau, within the Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS), and the legislation amending them was primarily reported by the House Ways and Means Committee and the Senate Finance Committee. Amendments to the Court Appointed Special Advocates (CASA) program, which is authorized under Subtitle B of the Victims of Child Abuse Act, are also discussed. This program supports provision of advocates for abused or neglected children who are the subject of court proceedings. It is administered within the Office of Justice Programs (OJP) at the Department of Justice (DOJ), and legislation amending it was reported by the House and Senate Judiciary Committees.[1]

The changes enacted affect a broad spectrum of child welfare policies, which range from who is an eligible child and what are eligible costs for which states may claim reimbursement under the Title IV-E Foster Care and Adoption Assistance program to the provision of new support for services to children affected by a parent/caretaker's abuse of methamphetamine or other substances and to required collaboration between welfare agencies and courts. The recently enacted laws also added a number of specific new requirements for state child welfare agencies. With regard to children in foster care, each state must have in place new or revised policies or procedures related to (1) the quality and quantity of caseworker visits; (2) consultation with medical professionals on health treatment; (3) placement of children across state lines; (4) verification of citizenship or immigration status; and (5) background checks of prospective foster and adoptive parents. Further, states are required to have in place policies or procedures enabling them to continue providing necessary child welfare services during a disaster. These changes were enacted in seven bills, each of which is briefly discussed below in order of their enactment.

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[1] For a short description of each of these child welfare programs and their recent and proposed funding levels, see Table 2 in CRS Report RL34121, *Child Welfare: Recent and Proposed Federal Funding Levels*, by Emilie Stoltzfus.

Fair Access to Foster Care Act of 2005

The Fair Access to Foster Care Act of 2005 (P.L. 109-113) permits states to claim reimbursement under Title IV-E of the Social Security Act on behalf of otherwise eligible foster children whose maintenance payments are provided to foster parents or institutional foster care providers via a *for-profit* foster care placement agency. Prior law stipulated that if a state sought to claim federal Title IV-E support on behalf of an otherwise eligible foster child, the child's maintenance payments could only be made by a public or *non-profit* agency. Noting that the use of *for-profit* foster care placement agencies is limited, the Congressional Budget Office (CBO) estimated this change would have an "insignificant" effect on federal foster care spending. The change was effective with the date of the law's enactment (November 22, 2005).[2]

Violence Against Women and Department of Justice Reauthorization Act of 2005

The Violence Against Women and Department of Justice Reauthorization Act (P.L. 109-162) reauthorized funding for the Court Appointed Special Advocates (CASA) program, permitted additional funding for training and technical assistance related to improving the criminal prosecution of child abuse, and authorized a new competitive grant program intended to improve services to children and youth exposed to violence.[3]

Court Appointed Special Advocates

Section 112 of P.L. 109-162 amended Subtitle B of the Victims of Child Abuse Act and reauthorized funding for the Court Appointed Special Advocates (CASA) program for each of FY2007-FY2011 at the prior law annual level of $12 million. In FY2007, CASA, which is administered within the Department of Justice, received $12 million in funding (P.L. 110-5).

In addition to extending the program's funding authority, P.L. 109-162 clarified that CASA funding may be used to "initiate, sustain, and expand" CASA programs. (Prior law generally limited the purpose of these funds to initiating or expanding programs.) It further authorizes state and local CASA programs to request criminal background checks for prospective volunteers from the Federal Bureau of Investigation (FBI) and stipulates that any CASA program that makes such a request is required to pay the "reasonable costs" associated with the check. Finally, with regard to CASA, P.L. 109-162 prohibits use of federal funds provided under the CASA program for lobbying and requires the Inspector General of the Department of Justice to prepare a report that looks at the types of activities funded by the

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[2] Congressional Budget Office (CBO), "S. 1894, Fair Access to Foster Care Act of 2005, as cleared by Congress on November 9, 2005."

[3] For additional information, see CRS Report RL33469, *Children Exposed to Domestic Violence: Federal Assistance Programs*, by Edith Fairman Cooper.

National CASA Association since 1993 and compares outcomes in cases where a CASA volunteer is appointed to assist a child to those where no CASA volunteer is appointed.[4]

Improved Prosecution of Child Abuse

Section 1193 of P.L. 109-162 added a new authorization of $7.5 million for each of FY2007-FY2011 for grants to the American Prosecutors Research Institute (APRI) to improve prosecution of child abuse cases. More specifically, APRI is expected to use these funds to provide technical assistance and training to attorneys and other individuals who prosecute child abuse cases in state or federal courts. Although P.L. 109-162 references program authority previously provided in statute for this kind of training and technical assistance (Section 214A of the Victims of Child Abuse Act), it did not amend that prior law, which expired with FY2005 (and had authorized annual funding of $5 million with no mention of APRI) . However, Congress has continued to provide funding for this purpose under that expired funding authority, and these funds are administered by the Department of Justice. In FY2007, just over $2 million was appropriated.[5]

Grants Related to Children's Exposure to Domestic Violence

Section 303 of P.L. 109-162 amended the Violence Against Women Act to add authority for four competitive grant programs related broadly to services, education, protection, and justice for young victims of violence. Just one of these grant programs is discussed in this report because it specifically requires child welfare agency involvement in administering any grant funding. Under this grant program, the Department of Health and Human Services (HHS, specifically the Family and Youth Services Bureau, FYSB) is authorized to make competitive grants to eligible entities for training and other activities intended to improve the collaborative community response to families in which both child maltreatment and domestic violence are present. To be eligible to receive this grant, an entity must be a collaborative partnership that includes a child welfare agency, an agency serving victims of domestic violence (or dating violence), and a law enforcement agency (it may also include courts and other relevant social service providers). Funding for this single grant program was authorized at $5 million for each of FY2007-FY2011. However, no specific funding was provided for this grant program in FY2007.

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[4] For more information on CASA, see CRS Report RL32976, *Child Welfare: Programs Authorized by the Victims of Child Abuse Act of 1990,* by Emilie Stoltzfus.

[5] This training and technical assistance funding is typically provided alongside funding for the Children's Advocacy Center's (CAC) program. Funding authority for that program also expired with FY2005, but it has continued to receive appropriations. For more information on the CAC and the related training and technical assistance, see CRS Report RL32976, *Child Welfare: Programs Authorized by the Victims of Child Abuse Act of 1990*, by Emilie Stoltzfus.

Deficit Reduction Act of 2005

An omnibus budget reconciliation measure, the Deficit Reduction Act (DRA, P.L. 109-171, Title VII, Subtitle D) made legislative changes intended to clarify which children are eligible for federal foster care and adoption assistance support (under Title IV-E of the Social Security Act). It also placed certain limitations on the ability of states to make claims for federal reimbursement of the costs of administering their Title IV-E foster care programs, including limits on the length of time a child may be considered a "candidate" for foster care and new rules or restrictions on administrative claims related to foster children placed in unlicensed relative homes or other settings that are "ineligible" under the federal foster care program.

Separately, the legislation raised the mandatory funding authorization for the Promoting Safe and Stable Families program (Title IV-B, Subpart 2 of the Social Security Act). It further amended both the Child Welfare Services (Title IV-B, Subpart 1) and the Court Improvement (Section 438 of the Social Security Act) programs to require both "ongoing" and "meaningful" collaboration between courts and child welfare agencies. Further, it amended the Court Improvement Program to authorize two new grants (related to data collection and training), which are intended to improve court handling of child welfare proceedings. The law appropriated $100 million ($20 million in each of FY2006-FY2010) for those grants. Finally, the DRA amended the Foster Care and Adoption Assistance plan requirements (under Title IV-E, of the Social Security Act) to assert that the program's confidentiality provisions are not intended to limit a state's flexibility in determining public access to child abuse and neglect proceedings, provided that, at a minimum, a state's policy on this issue ensured the safety and well-being of the child, parents, and family.[6]

For more detailed information on the child welfare provisions of the Deficit Reduction Act (which are included in Title VII, Subtitle D of that act), see CRS Report RL33155, *Child Welfare: Foster Care and Adoption Assistance Provisions in Budget Reconciliation* and CRS Report RL33350, *Child Welfare: The Court Improvement Program*, both by Emilie Stoltzfus.

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[6] The DRA also made changes to the Medicaid statute (Title XIX of the Social Security Act) that were intended to clarify when state child welfare agencies could use Medicaid's targeted case management (TCM) option to provide certain services for children in foster care. As of November 2007, the Administration had not yet issued the required regulations to implement those provisions.

Safe and Timely Interstate Placement Act of 2006

P.L. 109-239 amended Title IV-B and Title IV-E of the Social Security Act to encourage the expedited placement of foster children into safe and permanent homes across state lines and made several additional changes to child welfare policy under those parts of the law.

Timely Interstate Placement Procedures and Incentives

The law establishes a federal 60-day deadline for completing an interstate home study (necessary to determine the suitability and safety of the home) and a 14-day deadline for a state that requests this interstate home study to act on the information in the study. (For any home study begun before October 1, 2008, states may have up to 75 days to complete the study if they can document certain circumstances beyond their control that prevented its completion within 60 days.) The new law also authorizes $10 million in each of FY2007-FY2010, for incentive payments (valued at $1,500 each) to states for every interstate home study that is completed in 30 days. No funds were appropriated for these payments in FY2007.

P.L. 109-239 also prohibits states from restricting the ability of a state agency to contract with a private agency to conduct interstate home studies. Further, for children who will not be reunited with their parents, P.L. 109-239 encourages (or in some cases requires) identification and consideration of both in-state and out-of-state placement options — as part of currently required case review and planning activities for children in foster care.

Other Changes

Separately, the bill requires courts (as a condition of receiving certain funding intended to improve their handling of child welfare proceedings) to notify any foster parent, pre-adoptive parent, or relative caregiver of a foster child of any proceedings to be held regarding the child, and emphasizes the right of these individuals to be heard at permanency planning proceedings. Finally, the law strengthens language requiring the child welfare agency to maintain and update a complete health and education record for each child in foster care and requires that youth leaving foster care custody because they have reached the age of majority (typically at 18 years of age) must be given a free copy of their health and education record.[7]

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[7] For more information, see U.S. Department of Health and Human Services (HHS) Administration for Children and Families (ACF), "New Legislation: The Safe and Timely Interstate Placement of Foster Children Act of 2006," August 11, 2006. Available online at [http://www.acf.dhhs.gov/programs/cb/laws_policies/policy/im/im0603.pdf].

Adam Walsh Child Protection and Safety Act of 2006

An omnibus measure, the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248) includes additional federal requirements related to criminal background checks of prospective foster and adoptive parents and newly requires states to check child abuse and neglect registries for information about prospective foster or adoptive parents (Section 152).[8] The law also requires the establishment of a national registry of substantiated cases of child abuse and neglect (Section 633).

Criminal Records Checks

State procedures for criminal records checks of prospective foster and adoptive parents must now include a check of national crime databases (i.e., an FBI check), and must be done before the placement of *any* foster child can be finally approved with prospective foster or adoptive parents. Under prior law, the kind of criminal record check (for example, state vs. FBI vs. local) was not specified, and the federal requirement for these checks extended only to children for whom a state intended to make federal foster care or adoption assistance claims (under Title IV-E of the Social Security Act). As under prior law, (except in those states opting out of the requirements; see discussion below), if a criminal record check reveals certain felony convictions of a *prospective* foster or adoptive parent, a state may not claim Title IV-E foster care or adoption assistance for a child placed in his or her home. However, this does not absolutely prohibit the state child welfare agency from placing a foster child in the home of such a prospective foster or adoptive parent, if the agency nonetheless determines that the home is safe for the child. At the same time, use of this placement by the agency disqualifies the child for Title IV-E and the agency may not then seek federal reimbursement of the otherwise eligible costs it incurs on the foster or adoptive child's behalf.[9]

For most states, these criminal record check requirements became effective with the first day of FY2007. However, prior law allowed states to "opt out" of the federal criminal records check procedures, and P.L. 109-248 permits those "opt out states" to have until the first day of FY2009 to come into compliance with the prior law as well as the new requirements. These states are: Idaho, Oklahoma, Oregon, California,

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[8] For more information, see U.S. Department of Health and Human Services (HHS) Administration for Children and Families (ACF), "New Legislation: The Adam Walsh Child Protection and Safety Act of 2006," September 1, 2006. Available online at [http://www.acf.dhhs.gov/programs/cb/laws_policies/policy/im/im0604.pdf].

[9] Section 471(a)20(A) effectively prohibits a state from receiving federal Title IV-E foster care or adoption assistance support on behalf of an otherwise eligible child who, after the enactment of the Adoption and Safe Families Act of 1997 (P.L. 105-89), is placed in the home of a foster or adoptive parent where a record check shows that the prospective foster or adoptive parent was at any time, convicted of felony child abuse or neglect, spousal abuse, a crime involving children (including child pornography), or a crime involving violence (including rape, sexual assault or homicide, but not including other physical assault or battery); or if the record check shows a felony conviction for physical assault, battery or a drug-related offense that was committed in the last five years.

New York, Massachusetts, Ohio, and Arizona. [10] (Further, any state may be granted limited additional time to meet the new requirements if HHS determines that state legislation is needed to permit the state to comply with the new federal rules.)

Child Abuse and Neglect Registry Checks

Many child abuse and neglect cases are not the subject of criminal court proceedings, and information on the perpetrators is therefore unlikely to appear in a criminal records check. However, this data may be included in a state child abuse and neglect registry. As of the first day of FY2007, P.L. 109-248 requires all states to check any child abuse and neglect registry they maintain for information about a prospective foster or adoptive parent (and any adult living in their household). The check must be made before approving placement of a foster child in the home (and without regard to whether the state plans to claim Title IV-E support for the child). States must also request (and all states must comply with such requests) information from any other state's child abuse and neglect registry where the prospective foster or adoptive parent, or other adult, has lived in the past five years. There are no federal stipulations about how states must use the information from these registries.

National Registry of Substantiated Child Abuse and Neglect

Finally, P.L. 109-248 requires HHS, in consultation with the Justice Department, to create a national registry of substantiated cases of child abuse or neglect. Information in this national registry is to be accessible only to a federal, state, tribal, or local government entity (or an agent of such a public entity) that needs the information "to carry out its responsibilities under law to protect children from child abuse and neglect." Separately, the law requires HHS to "conduct a study on the feasibility of establishing data collection standards for a national child abuse and neglect registry" and to make recommendations and findings on (1) the costs and benefits of such data collection standards; (2) data collection standards currently employed by states, tribes, or other political subdivisions; and (3) data collection standards that should be considered to establish a model of promising practices.[11]

The law authorized total funding of $500,000 (for FY2006 and FY2007) to carry out the study and required that a report of this study be submitted to Congress by the end of July 2007.[12] However, no funds were appropriated under this authority.

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[10] These states were identified by HHS as the "opt-out" states in July 2006. P.L. 109-248 eliminated the ability of any additional states to opt out of the prior law provisions.

[11] Nearly all states have a child abuse and neglect registry, but the information included, and access to this information, varies. For more information, see U.S. Department of Health and Human Services, Child Welfare Information Gateway, "Establishment and Maintenance of Central Registries for Child Abuse Reports," (current through August 2005). Available online at [http://www.childwelfare.gov/systemwide/laws_policies/statutes/centregall.pdf].

[12] Section 633(g) of P.L. 109-248 provides that this report was to be submitted to the Judiciary Committees in both the House and Senate and to the Senate Health, Education, Labor and Pensions Committee and the House Education and Workforce Committee. The law further stipulated that the report was to be submitted to these committees by the (continued...)

The acting head of the HHS, Administration for Children and Families (ACF), stated in a July 27, 2007, letter that "Completion of the feasibility study, and careful consideration of its conclusions, should be undertaken before establishing the National Registry." He further noted that in responding to "constituent inquiries" concerning the registry, HHS "acknowledges that work on the National Registry cannot begin because funds are not available for the feasibility study."[13]

Child and Family Services Improvement Act of 2006

The Child and Family Services Improvement Act of 2006 (P.L. 109-288) amended and/or reauthorized the Child Welfare Services, Promoting Safe and Stable Families, Court Improvement, and Mentoring Children of Prisoners programs (all authorized under Title IV-B of the Social Security Act) and made one amendment to the section of Title IV-E of the Social Security Act that defines the case review procedures required for each child in foster care.

Promoting Safe and Stable Families Amendments

The Promoting Safe and Stable Families program (PSSF, Title IV-B, Subpart 2 of the Social Security Act) primarily authorizes formula grants to all states for provision of family support, family preservation, time-limited reunification and adoption promotion and support services. P.L. 109-288 extended, through FY2011, the program's annual funding authorization of $545 million(Title IV-B, Subpart 2). Program funding, however, has never reached the full authorization. In FY2007, the PSSF program received $434 million.

Targeted Funding. For each of FY2006-FY2011, P.L. 109-288 targets no less than $40 million of this PSSF funding for two specific purposes: to support monthly caseworker visits to children in foster care and to improve outcomes for children affected by methamphetamine or other substance abuse. From this six-year funding set-aside of $240 million, the law stipulates that a total of $95 million is to be distributed to all states, by formula, to support monthly caseworker visits with children in foster care and $145 million is to be made available as competitive grants to regional partnerships (which must in nearly all cases include a public child welfare agency) that provide services and activities to improve the outcomes of children affected by parents/caretakers' abuse of methamphetamine or other substances. In late September 2007, HHS announced 53 grantees (in 28 states) who are each

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[12] (...continued)
"Department of Homeland Security" (DHS). However, as the same section of the law requires *HHS* to make the study and related recommendations, this reference to DHS appears to be a drafting error.

[13] Copy of letter from Daniel Schneider, Acting Assistant Secretary for Children and Families, ACF HHS to Senator Dianne Feinstein, July 27, 2007, provided to CRS by the HHS, Office of Assistant Secretary for Legislation, Human Services.

expected to receive total funding under this grant program of between $1.5 million and $3.7 million (across grant periods ranging from three to five years).[14]

Increased Funding to Tribes. In addition, the law increased the funding set-aside from the PSSF program for tribal child and family services — tribal funding under this program grew from roughly $5 million in FY2006 to about $12 million in FY2007. Further, in FY2006, roughly 80 tribes had access to the PSSF funds for child and family services as compared to more than 130 tribes in FY2007.

Other Changes. P.L. 109-288 also amended the PSSF program to require states to report on their *actual* use of funds under Title IV-B of the Social Security Act, and it requires HHS to annually submit a report to Congress on these state expenditures. (Under prior law, states reported *planned* expenditures only, and these data have not been readily available to Congress.) Finally, the law limits administrative spending under the PSSF program (both federal and state/local dollars) to no more than 10% of funds spent by the state.

Child Welfare Services Amendments

P.L. 109-288 made amendments to the Child Welfare Services program (CWS, Title IV-B, Subpart 1 of the Social Security Act), which authorizes formula grants to states to develop a broad range of child welfare services and activities. The CWS program was first authorized in 1935. Significant amendments had not been made to it in more than a decade.

Funding Authority. Under prior law, the CWS program had a permanent funding authorization — meaning it never needed funding reauthorization.[15] The 2006 amendments reorganized certain provisions in the program and limited funding authority for the program to FY2007-FY2011. (This places the program on the same reauthorization cycle as the PSSF program.) P.L. 109-288 did not change the funding authority for this program, which was set at $325 million beginning with FY1990. However, funding for this program has never reached this full authorization level. In FY2007, the program received $287 million.

Program Purposes. P.L. 109-288 emphasized that CWS funds are provided to assist states in developing and expanding child and family services that use "community-based" agencies. A new "Purposes" section further adds that these services should protect and promote the welfare of all children, prevent neglect,

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[14] The list of grantees is provided under the heading "Targeted Grants to Increase the Well-Being of, and Improve the Permanency Outcomes for Children Affected by Methamphetamine or Other Substance Abuse" in *FY2007 Children's Bureau Discretionary Grant Awards.* Available at [http://www.acf.dhhs.gov/programs/cb/programs_fund/discretionary/2007.htm].

[15] A "permanent" funding authority means that the program is authorized to receive appropriations every year on a permanent basis. By contrast, many social service programs have time-limited funding authority (e.g. funds are authorized to be appropriated for each of FY2007-FY2011), and this typically prompts Congress to consider "reauthorization" legislation just ahead of the funding expiration.

abuse, or exploitation of children, support at-risk families (to allow children to remain safely in their own homes or to return home in a timely manner); to promote the safety, permanence, and well-being of children in foster care and adoptive families; and to provide training, professional development, and support to ensure a well-qualified child welfare workforce. With the exception of the attention to community-based agencies and the mention of staff training support, these purposes are largely in keeping with the prior law definition of "child welfare services" that previously defined how states could use funds provided under this program.

New Requirements. P.L. 109-288 also included several new state plan requirements. States (as of September 28, 2007) are required to have procedures to respond to and maintain child welfare services in the wake of a disaster and must also describe in their state plan how they consult with medical professionals to assess the health of and provide medical treatment to children in foster care. Further, states were required to establish (as of October 1, 2007) standards for the content and frequency of caseworker visits of children in foster care. Those standards must "at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery."

Receipt and Use of Funds Restrictions. For any state to receive funding under the CWS program in FY2008, P.L. 109-288 specifies that it must provide data to HHS showing the percentage of children in foster care that were visited on a monthly basis (by the caseworker handling the child's placement) and the percentage of those visits that occurred where the child lived. Further, on the basis of this data, HHS and each state must develop a plan to ensure that no later than October 1, 2011, at least 90% of children in the state's foster care caseload are visited monthly and that the majority of the visits occur where the child lives. States failing to make the planned progress toward this goal will be required to spend more of their own (i.e. state or local or both) funds in order to receive their full allotment of CWS funding.

P.L. 109-288 made a number of additional changes related to the use of CWS funds. Beginning with FY2008, the law limits the use of program funds (both federal and state/local) for administrative purposes to no more than 10%. Also beginning with FY2008, the law prohibits any use of federal CWS funds for adoption assistance payments or child care above the amount of federal CWS funds spent for those purposes in FY2005, and it prohibits the use of both federal and state/local CWS funds for foster care maintenance payments above the amount of those funds spent for foster care maintenance payments in FY2005.

Other Program Amendments

P.L. 109-288 extended for five years (FY2007-FY2011) grants to eligible state highest courts to assess and improve their handling of child welfare proceedings (under the Court Improvement Program).[16] It reauthorized the Mentoring Children

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[16] Funds for this Court Improvement grant are set aside from the total funding provided for the PSSF program and are in addition to the funds approved for two other Court (continued...)

of Prisoners program for those same five years — authorizing funding of "such sums as may be necessary" — and provided new authority for HHS to support a demonstration of the effectiveness of vouchers as a way to improve the delivery of (and access to) mentoring services for children of prisoners. Finally, P.L. 109-288 amended the case review procedures included in Title IV-E of the Social Security Act to require that the court (or court-approved administrative body) conducting a required permanency hearing for a child in foster care to consult with the child in an "age-appropriate manner" regarding the proposed plan to find a permanent home for the child or to help the child transition to independent living.

For more information about the changes made by P.L. 109-288 to Promoting Safe and Stable Families, Child Welfare Services, and other programs, see CRS Report RL33354, *The Promoting Safe and Stable Families Program: Reauthorization in the 109th Congress*, by Emilie Stoltzfus.

Tax Relief and Health Care Act of 2006

An omnibus measure, the Tax Relief and Health Care Act of 2006 (P.L. 109-432), made several changes to provisions that were enacted in the Deficit Reduction Act of 2005 (DRA, P.L. 109-171) that affect children in foster care. Specifically, Section 6036 of the DRA requires most individuals to submit certain forms of citizenship or nationality documentation in order to be eligible for Medicaid. P.L. 109-432 (Section 405(c)), however, *exempts all foster children* (without regard to Title IV-E eligibility) *from this requirement*. The change was made effective as if it was included in the DRA.

Separately, P.L. 109-432 amended Title IV-E of the Social Security Act to require states to have in effect procedures for verifying the citizenship or immigration status of each child in foster care (whether or not the state claims Title IV-E support for the child).[17] Finally, this law amended Section 1123A of the Social Security Act to specifically require that state compliance with this new federal requirement be checked as part of periodic conformity reviews (e.g. the Child and Family Services Review). These changes were effective as of June 20, 2007 (six months after the enactment of P.L. 109-432).

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[16] (...continued)
Improvement grant programs that were provided in the DRA (as discussed earlier in the report).

[17] The law does not specify what states must do with this information. Current law prohibits states from claiming Title IV-E support for certain non-citizen children. There are no prohibitions on states serving non-citizen children with state dollars. For more information, see Section 7.1 and Section 8.4B of the Child Welfare Policy Manual. Available online at [http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/index.jsp].