

**Foster Care Independence Act of 1999 and  
TITLE IV-E Independent Living Initiative**

TITLE I--IMPROVED INDEPENDENT LIVING PROGRAM

Subtitle A--Improved Independent Living Program

SEC. 101. IMPROVED INDEPENDENT LIVING PROGRAM.

(a) Findings.--The Congress finds the following:

(1) States are required to make reasonable efforts to find adoptive families for all children, including older children, for whom reunification with their biological family is not in the best interests of the child. However, some older children will continue to live in foster care. These children should be enrolled in an Independent Living program designed and conducted by State and local government to help prepare them for employment, postsecondary education, and successful management of adult responsibilities.

(2) Older children who continue to be in foster care as adolescents may become eligible for Independent Living programs. These Independent Living programs are not an alternative to adoption for these children. Enrollment in Independent Living programs can occur concurrent with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

(3) About 20,000 adolescents leave the Nation's foster care system each year because they have reached 18 years of age and are expected to support themselves.

(4) Congress has received extensive information that adolescents leaving foster care have significant difficulty making a successful transition to adulthood; this information shows that children aging out of foster care show high rates of homelessness, non-marital childbearing, poverty, and delinquent or criminal behavior; they are also frequently the target of crime and physical assaults.

(5) The Nation's State and local governments, with financial support from the Federal Government, should offer an extensive program of education, training, employment, and financial support for young adults leaving foster care, with participation in such program beginning several years before high school graduation and continuing, as needed, until the young adults emancipated from foster care establish independence or reach 21 years of age.

(b) Improved Independent Living Program.--Section 477 of the Social Security Act (42 U.S.C. 677) is amended to read as follows:

SEC. 477. [42 U.S.C. 677] (a) PURPOSE.--The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted--

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- (1) to identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);
  - (2) to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;
  - (3) to help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;
  - (4) to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults; <sup>[179]</sup>
  - (5) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood; and <sup>[180]</sup>
  - (6) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care. <sup>[181]</sup>
- (b) APPLICATIONS.--
- (1) IN GENERAL.--A State may apply for funds from its allotment under subsection (c) for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.
  - (2) STATE PLAN.--

A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

    - (A) Design and deliver programs to achieve the purposes of this section.
    - (B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.
    - (C) Ensure that the programs serve children of various ages and at various stages of achieving independence.
    - (D) Involve the public and private sectors in helping adolescents in foster care achieve independence.
    - (E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

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(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

### (3) CERTIFICATIONS.--

The certifications required by this paragraph with respect to a plan are the following:

(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended or room or board for any child who has not attained 18 years of age.

(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.

(E) A certification by the chief executive officer of the State that the State has consulted widely with with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State.

(H) A certification by the chief executive officer of the State that the State will ensure that adolescents participating in the program under this section participate directly in designing their own program activities that prepare

them for independent living and that the adolescents accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State educational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use--

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5); and  
(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program. <sup>[182]</sup>

(4) APPROVAL.--The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if--

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.--A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) AVAILABILITY.--The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) ALLOTMENTS TO STATES.--

(1) GENERAL PROGRAM ALLOTMENT.--From the amount specified in subsection (h)(1) <sup>[183]</sup> that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the ratio <sup>[184]</sup> to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2). <sup>[185]</sup>

(2) HOLD HARMLESS PROVISION.--

(A) IN GENERAL.--The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) RATABLE REDUCTION OF CERTAIN ALLOTMENTS.--In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of

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\$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) VOUCHER PROGRAM ALLOTMENT.--From the amount, if any, appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) STATE FOSTER CARE RATIO.--In this subsection, the term "State foster care ratio" means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year. [\[186\]](#)

### (d) IN GENERAL.--

(1) IN GENERAL.--A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.--The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) TWO-YEAR AVAILABILITY OF FUNDS.--Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year. [\[187\]](#)

(4) REALLOCATION OF UNUSED FUNDS.--If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary, the funds to which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary. [\[188\]](#)

### (e) PENALTIES.--

(1) USE OF GRANT IN VIOLATION OF THIS PART.--If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.--The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.--The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

### (f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.--

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(1) IN GENERAL.--The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall--

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track--

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after the date of the enactment of this section.

(2) REPORT TO THE CONGRESS.--Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1) and a proposal to impose penalties consistent with paragraph (e)(2) on States that do not report data.

(g) EVALUATIONS.--

(1) GENERAL.--The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) FUNDING OF EVALUATIONS.--The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.--To carry out this section and for payments to States under section [474\(a\)\(4\)](#), there are authorized to be appropriated to the Secretary for each fiscal year--

(1) \$140,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who

age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.<sup>[189]</sup>

(i) EDUCATIONAL AND TRAINING VOUCHERS.--The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section.

(2) For purposes of the voucher program, youths adopted from foster care after attaining age 16 may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program.

(4) The voucher or vouchers provided for an individual under this section--  
(A) may be available for the cost of attendance at an institution of higher education, as defined in section 102 of the Higher Education Act of 1965; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 472 of that Act.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.<sup>[190]</sup>

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<sup>[178]</sup> P.L. 106-169, §101(b), amended §477 in its entirety, effective December 14, 1999.

See Vol. II, P.L. 106-169, §101(d), with respect to regulations to be issued to carry out §101 and §101(e) with respect to the sense of Congress regarding medical assistance to 18, 19 and 20 year olds emancipated from foster care.

<sup>[179]</sup> P.L. 107-133, §201(a)(1), struck out "and".

<sup>[180]</sup> P.L. 107-133, §201(a)(2), struck out the period and inserted "; and".

<sup>[181]</sup> P.L. 107-133, §201(a)(3), inserted a new paragraph (6).

<sup>[182]</sup> P.L. 107-133, §201(c), added paragraph (J).

<sup>[183]</sup> P.L. 107-133, §201(e)(1)(A), struck out "IN GENERAL.--From the amount specified in subsection (h)." and substituted "(1) GENERAL PROGRAM ALLOTMENT. - -From the amount specified in subsection (h)(1)."

<sup>[184]</sup> P.L. 107-133, §201(e)(1)(B), struck out "which bears the same ratio and substituted "which bears the ratio."

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[\[185\]](#) P.L. 107-133, §201(e)(1)(C), struck out "as the number of children in foster care" and all that follows, and substituted "equal to the the State foster care ratio, as adjusted in accordance with paragraph (2)."

[\[186\]](#) P.L. 107-133, §201(e)(2), added new paragraphs (3) and (4).

[\[187\]](#) P.L. 107-133, §202(b), provides that "Notwithstanding section [477\(d\)\(3\)](#) of the Social Security Act, payments made to a State under section 477 of such Act for fiscal year 2000 shall remain available for expenditure by the State through fiscal year 2002."

[\[188\]](#) P.L. 107-133, §202(d), added a new subsection (4).

[\[189\]](#) P.L. 107-133, §201(d), struck out "there are authorized" and inserted "there are authorized to be appropriated to the Secretary for each fiscal year--

(1) \$140,000,000, which shall be available for all purposes under this section;

and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives."

[\[190\]](#) P.L. 107-133, §201(b), added a new subsection (i)

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