Order Code RL31746

Child Welfare Issues in the 108th Congress

Updated January 12, 2005

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Summary

Child welfare services seek to protect children who have been abused or neglected or who are at risk of maltreatment. An estimated 896,000 children were the victims of child abuse or neglect in the year 2002. Some children who experience maltreatment are removed from their homes with protective custody given to the state. On the last day of FY2003, an estimated 523,000 children were in foster care.

States have the primary responsibility for designing and administering child welfare programs. However, the federal government supports these programs with significant funds and requires states to comply with federal standards. FY2005 funding for child welfare programs was included in P.L. 108-447. Funding levels generally remained close to FY2004 levels, although money provided for two grants under the Child Abuse Prevention and Treatment Act (CAPTA) was increased. **Table 1** lists child welfare program funding levels for FY2002-2005.

Several authorizing proposals related to child welfare programs were enacted by the 108th Congress. In December 2003, President Bush signed the Adoption Promotion Act of (P.L. 108-145); that law reauthorized and amended adoption incentives payments for states that increase the number of adoptions out of the public child welfare system. The Keeping Children and Families Safe Act (P.L. 108-36), which reauthorized CAPTA and several related programs, was signed into law in June 2003. Finally, in September 2004, P.L. 108-308 extended, through the end of March 2005, the authority of the U.S. Department of Health and Human Services (HHS) to approve new child welfare waivers.

A number of proposals to revamp the way federal child welfare funds are distributed were discussed in the past two years, but no final action was taken during the 108th Congress. In May 2004 the Pew Commission on Children in Foster Care recommended ending the current income eligibility requirements for federal adoption assistance and foster care maintenance payments; and keeping the current open-ended funding of these programs while reducing the federal matching rate for eligible claims. Introduced in July 2004, H.R. 4856 followed the Pew Commission's proposal by removing most income eligibility criteria for federal adoption assistance and foster care maintenance payments and by lowering federal matching rates for the related eligible claims. H.R. 4856, however, proposed to end open-ended federal funding for foster care maintenance payments (while retaining it for adoption assistance). Other child welfare financing proposals made in the 108th Congress, most of which were less sweeping, are discussed in this report.

Legislation to promote timely placement of children across state lines (H.R. 4504) and to make a 2001 broadening of the adoption tax credit permanent (H.R. 1057) passed the House (on October 5, 2004 and September 23, 2004, respectively) but was not acted on by the Senate before the close of the 108th Congress. In September 2004, the Senate passed a bill to reauthorize the Indian Child Protection and Family Violence Prevention Act (S. 1601), but the House took no action on this bill. These and other child-welfare-related proposals that were introduced during the 108th Congress are discussed in this report. This report will not be updated.

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Child welfare services are intended to protect children who have been abused or neglected or are at risk of maltreatment. These services take various forms, ranging from counseling and other supports for parents — which are intended to improve child well-being and prevent child abuse and neglect — to removal of the children from their homes. At the most extreme, these services include termination of parental rights and placement of the children for adoption.

States have primary responsibility for delivering child welfare services and deciding when to intervene in a family's life to protect the children. The federal government supports these state efforts with substantial funds. In FY2004, the federal government provided more than $7 billion in funds dedicated to child welfare programs, primarily for costs related to maintaining the foster care or adoptive placements of children who have been maltreated. In exchange for this funding (mostly offered under Title IV-B and Title IV-E of the Social Security Act), states must comply with federal rules intended to protect children who are served by the child welfare system. States also draw significant federal funds for support of child welfare services from the Social Services Block Grant (SSBG, Title XX of the Social Security Act), the Temporary Assistance for Needy Families block grant (TANF, Title IV-A of the Social Security Act), and other federal programs, such as Medicaid and Supplemental Security Income (SSI).

Most child welfare and related child abuse and neglect programs are administered at the federal level by the Children's Bureau of the Department of Health and Human Services (HHS). The House Ways and Means and the Senate Finance Committees have exercised jurisdiction over the majority of child welfare programs currently authorized. These include all of the programs provided for under Title IV-B and IV-E of the Social Security Act. (See **Table 1** at the back of this report for a list of these programs.) The House Committee on Education and the Workforce, and Senate Committee on Health, Education, Labor, and Pensions have exercised jurisdiction over the Child Abuse Prevention and Treatment Act (CAPTA). A handful of smaller programs, related primarily to the court handling of child abuse cases, are administered by the Department of Justice, and some of these are under the jurisdiction of the House and Senate Judiciary Committees. Likewise, programs for missing and sexually exploited children are administered by the Department of Justice. (These Department of Justice programs are outside the scope of this report.)

Child Maltreatment and Children in Foster Care

In 2002, an estimated 896,000 U.S. children were found to be victims of abuse or neglect, and an estimated 1,400 children died due to abuse and neglect. The total estimated number of child maltreatment victims in 2002 falls below the 903,000 victims reported in 2001 and is well below the annual estimated highs of more than

1 million child maltreatment victims recorded through the mid-1990s. For 2002, states reported 61% of the child maltreatment victims experienced neglect (alone or in combination with another form of maltreatment). In recent years, the percentage of all victims who experienced neglect has ranged from a low of 58% in 1999 to a high of 63% in 2000. The percentage of physical abuse and sexual abuse victims has declined over the past five years but held fairly constant between 2000 and 2002.[1]

The number of children estimated to have been in foster care nationally has declined for the four most recent years in which data are available. An estimated 523,000 children were in foster care on the last day of FY2003, down from an estimated 532,000 on the last day of FY2002 and well below the estimated peak of 567,000 children in care on the last day of FY1999. (See **Figure 1**.)

The 7.5% decline in the national foster care caseload from FY1999 to FY2003 represents more than 42,000 children, but those numbers mask considerable variation in caseload trends among the states. Between FY1999 and FY2003, a little more than half of all the states (28), including the District of Columbia and Puerto Rico, recorded reductions in their foster care caseload. The size of those reductions ranged from 37% in Illinois (representing 12,719 children) to less then 1% each in Indiana (34 children) and Missouri (61 children). The largest numerical declines in caseload size were shown in California (20,676; 18% caseload decrease) and New York (12,899; 25% caseload decrease), with Illinois a close third. Over the same time period, however, 23 states saw increases in their foster care caseload, ranging from a little more than 1% in Oregon (103 children) to 46% in Idaho (representing 442 children). The largest numerical increases in caseload were recorded by Texas (5,865) and New Jersey (3,334), reflecting 36% and 35% growth in their foster care caseloads, respectively.[2]

The size of the foster care caseload rises or falls depending upon both the number of entries to foster care — children who are removed from their homes in a given year — and the number of exits in that same year — children reunited with their families, adopted, emancipated, or placed in another permanent setting. Nationally, the number of entries to foster care has outpaced the number of exits for two decades. Between FY1999 and FY2003 the number of entries remained relatively stable, ranging from 293,000 to 303,000, while the number of exits generally rose, ranging from 257,000 to 281,000.

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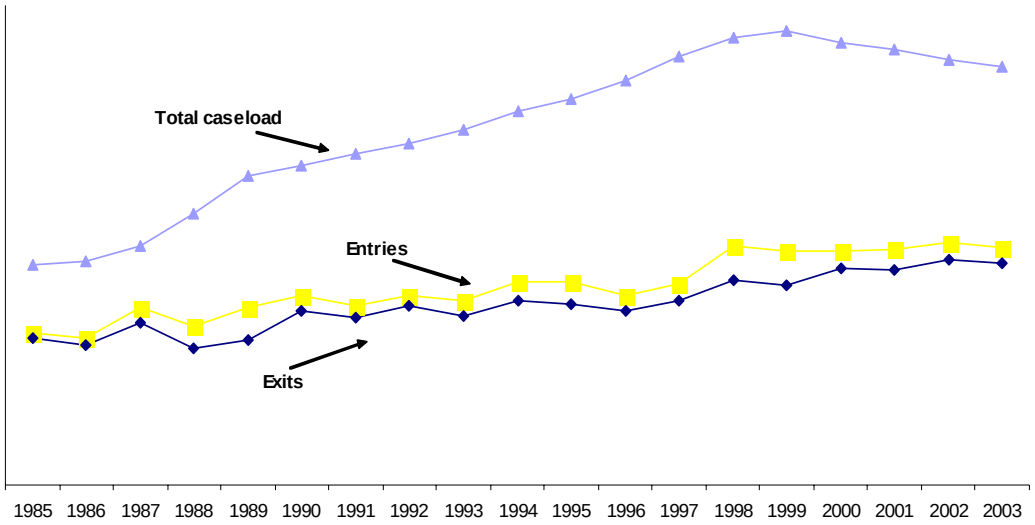
[1] U.S. Department of Health and Human Services, Administration on Children Youth and Families, *Child Maltreatment 2002*, 2004, pp. 21-50, available on the Web, at [http://www.acf.hhs.gov/programs/cb/publications/cm02/cm02.pdf].

[2] Caseload changes, numeric and percent, are based on children reported in care on the last day of FY1999 compared to those reported in care for the last day of FY2003. Available data include 49 states, the District of Columbia and Puerto Rico. Caseload data for Nevada is not reported for FY1999. Foster care caseload information is available, by state, at [http://www.acf.dhhs.gov/programs/cb/dis/tables/entryexit2002.htm].

Figure 1. Estimates of U.S. Children in Foster Care, 1985-2003, Including Entries and Exits



Source: Data from 1985 to 1996 are from the American Public Human Services Association. Data from 1997 forward are estimates by the U.S. Department of Health and Human Services based on the Adoption and Foster Care Analysis Reporting System (AFCARS). These data are estimates and may be revised if states submit new information.

Note: The number of children in care is shown for the last day of the given fiscal year. The number of entries and exits are cumulative totals for the given fiscal year.

Child Welfare Legislation Enacted in the 108th Congress

Adoption Incentives. The Adoption Promotion Act of 2003, introduced by Representative Camp (H.R. 3182) and Senator Grassley (S. 1686), was signed into law on December 2, 2003 (P.L. 108-145). The act extends funding authorization for adoption incentive payments (Section 473A of the Social Security Act) through FY2008. Initially created in the 1997 Adoption and Safe Families Act (P.L. 105-89), as part of that act's overall strategy to promote safety and expedited permanency for children in state foster care systems, the incentive payments coincided with a significant increase in adoptions out of the child welfare system.

P.L. 108-145 preserves much of the current adoption incentive payment structure but updates the baselines (that is, the number of adoptions a state must exceed in order to be eligible for bonuses) and provides a new incentive tied to the number of adoptions of older children (age nine years and above). The new law provides for three separate baselines and allows states to receive adoption incentive payments if they exceed some or all of these baselines.

Overall adoption. The new law continues a $4,000 bonus for increasing overall adoptions out of foster care but establishes a new baseline for determining whether a state has achieved this increase. Beginning with adoptions out of public foster care that were finalized in FY2003, a state that exceeds the number of such public foster care adoptions accomplished in FY2002 (or in succeeding years, the

highest number of such adoptions completed in a previous year beginning with FY2002) can claim the $4,000 bonus for each one of those adoptions over the baseline. A state may earn a bonus for an increase in its overall adoptions without regard to whether it meets the older child or special needs baselines described below.

Older child adoption. Independently the statute establishes a new bonus for the adoption of children out of public foster care who are aged 9 years or older. The older child adoption baseline is set for FY2003 at the number of such adoptions accomplished in FY2002 and for succeeding years, the highest number of such adoptions achieved in any year (beginning with FY2002). For every older child adoption over the baseline, a state may earn a $4,000 bonus. A state may earn a bonus for an increase in its older child adoptions without regard to whether it exceeds the overall adoption baseline or the special needs baseline (described below).

The addition of an award tied specifically to an increased number of older child adoptions was proposed by the Administration based on HHS analysis of foster care adoption data. These data indicated that older children are less likely to be adopted than younger children and that older children constitute an increasing proportion of the children waiting to be adopted.

Special needs adoption. The new law amends the prior incentive available for special needs adoptions and ties the current incentive to special needs children who are *under the age of 9 years*.[3] The state's FY2003 baseline for special needs adoptions of children under the age of 9, is the total number of such adoptions it completed in FY2002; for FY2004 and succeeding years it is the highest number of such adoptions it completed in a previous year (beginning with FY2002). For every one of these special needs adoptions over its baseline a state may earn a $2,000 incentive. However, in order to be eligible for these incentives a state must also exceed either its overall adoption baseline or its older child adoption baseline.

Funding. States are permitted to use adoption incentive funds for any purpose authorized under Title IV-B or Title IV-E of the Social Security Act. P.L. 108-145 increases the funding authorization level for adoption incentives to $43 million annually, or a total of $215 million for the five-year period FY2004 through FY2008. (These funds are to reward states for adoptions finalized in FY2003 through FY2007.) Prior law had authorized a total of $123 million for five years (FY1998-FY2002.) However, state success at completing adoptions outpaced this funding level — states won adoption incentive payments totaling nearly $160 million for adoptions in those five years, and Congress appropriated funds above the authorization level to ensure that full payments to states could be made.[4] For FY2004, Congress appropriated just $7.5 million. However, the FY2004 omnibus spending measure (P.L. 108-199) specified that $27.5 million in unspent FY2003

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[3] "Special needs" are factors or conditions that pose a barrier to a child's adoption. They are defined by each state and often include the child's age, ethnicity, membership in a sibling group, a medical condition or disability, or combinations of such factors or conditions.

[4] For more information on adoption incentives, including amounts awarded by state for adoptions completed in FY1998-FY2002, see CRS Report RL32296, *The Adoption Incentives Program*, by Kendall Swenson.

appropriations for adoption incentives were to remain available for FY2004. (Out of these available funds HHS awarded $17.9 million for adoptions completed in FY2003.) For FY2005, Congress appropriated $32 million for Adoption Incentives, which is the amount requested by the Administration.

P.L. 108-145 reauthorizes funding for technical assistance to help states increase their number of adoptions or other permanent placements. (No funds have been appropriated for this purpose since its initial enactment.) The new law also required HHS to report to Congress on the efforts made by states to promote adoption and other permanency options for foster children, with special emphasis on older children. In preparing this report, the law directs HHS to review state child welfare waiver programs and consult with state governments, child welfare agencies, and child advocacy organizations to identify "promising approaches." The report, which was due on October 1, 2004, is expected to be available in 2005. Finally, the new law explicitly authorizes financial penalties for states that fail to submit timely or adequate child welfare data via the Adoption and Foster Care Analysis Report System (AFCARS). (For more information on these provisions, see **Data Collection and Reporting**, below.)

Child Abuse Prevention and Treatment Act (CAPTA). On June 25, 2003 President Bush signed into law the Keeping Children and Families Safe Act of 2003 (P.L. 108-36). The law reauthorizes the Child Abuse Prevention and Treatment Act (CAPTA) and related programs. The House (by a roll call vote of 421 to 3) and the Senate (by unanimous consent) had agreed to the conference report (H.Rept. 108-150) in the previous week. Legislation to reauthorize CAPTA, which had expired in FY2001, was introduced early during the first session of the 108th Congress (H.R. 14 and S. 342).[5]

CAPTA authorizes grants and research funds designed to improve state and local child protective services, offer services aimed at preventing child abuse and neglect, and increase knowledge about ways to prevent child maltreatment or better respond to its occurrence. P.L. 108-36 increases the funding authorization for CAPTA's grant programs to $200 million for FY2004 and extends its program authority through FY2008. While Congress maintained CAPTA funding through FY2002 and FY2003, when funding authorization had expired, it has generally appropriated CAPTA funding well below the statute's authorized amount (previously set at $166 million for FY1997). Between FY2000 and FY2002, however, total CAPTA funding grew from $72.4 million to $87 million, with most of the increase devoted to the Discretionary Grants part of CAPTA and linked to specific congressional earmarks for this money. This pattern held through FY2004 (i.e., increases over the FY2000 level are primarily linked to CAPTA's Discretionary Grants) but was reversed in FY2005. In that year, following the President's budget request for major increases in Basic State and Community-Based grants, funding for

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[5] On Feb. 12, 2003, the Senate Committee on Health, Education, Labor and Pensions ordered S. 342 to be reported without amendment (S.Rept. 108-12), and one day later the House Committee on Education and the Workforce ordered H.R. 14 to be reported, as amended (H.Rept. 108-26). In March, both chambers passed slightly different versions of the legislation (S. 342) by unanimous consent.

these two CAPTA accounts grew by nearly $15 million, while CAPTA's Discretionary Grant received several million dollars less in FY2005 than in FY2004. Total CAPTA funding was $81.6 million for FY2002 (P.L. 107-116), $88.9 million for FY2003 (P.L. 108-7) and $89.5 million for FY2004 (P.L. 108-199) and climbed to an estimated $101.8 million for FY2005 (P.L. 108-447).[6]

Beyond extending and increasing CAPTA funding authorization, P.L. 108-36 includes provisions designed to strengthen efforts to prevent child abuse and neglect, to promote increased sharing of information and expertise between child protective service agencies and education, health, and juvenile justice systems, to encourage a variety of new training programs designed to improve child protection, and to improve communication and collaboration between child protective services workers and families who are part of a child abuse and neglect investigation. The law also includes for-profits (generally) among the groups that may seek demonstration grant funds and receive technical assistance for programs related to treating or preventing child maltreatment.

P.L. 108-36 also requires states that seek Basic State Grant Funds under CAPTA to meet a number of new "assurances" to be eligible for this funding. In requesting these CAPTA funds states must assure that they will[7] —

- require health care providers involved in delivery of an infant who was prenatally exposed to an illegal drug and is identified as being affected by this substance use to report this to child protective services and require that a "safe plan of care" for this newborn be developed;
- have triage procedures for the appropriate referral of children who are not at risk of imminent harm to a community organization or voluntary preventive service;
- disclose confidential information to federal, state, and local government entities (or their agents), if the information is needed to carry out their lawful duties to protect children;
- have provisions to ensure that alleged child maltreatment perpetrators are promptly informed of the allegations made against them;
- develop (within two years of the legislation's enactment) provisions for criminal background checks of all adults in prospective adoptive and foster care homes;
- have provisions for improving the training, retention, and supervision of caseworkers;

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[6] P. L. 108-447 provided $102.6 million for CAPTA before the application of an across-the-board funding reduction for discretionary accounts. The estimated FY2005 final funding level of $101.8 million assumes a proportionate application of that funding reduction.

[7] Each of the assurances required of states seeking an allotment under CAPTA's Basic State Grant authority must also be met in order for a state to receive funding under the Children's Justice Act grants. Program authority for the Children's Justice Act grants is included in CAPTA, but funding is made available, out of non-appropriated funds, via P.L. 98-473.

- have provisions to address training of child protective service workers regarding their legal duties in order to protect the rights and safety of children and families;
- develop procedures for referral of child maltreatment victims under three years of age to the statewide early intervention program (for developmental assessment and services) operated under Part C of the Individuals with Disabilities Education Act (IDEA).[8]

The Keeping Children and Families Safe Act of 2003 also reauthorizes (through FY2008) and increases the funding authority for two related programs: Adoption Opportunities and Abandoned Infants Assistance. A number of the proposed changes in the Adoption Opportunities program are intended to eliminate barriers to the adoption of children across state and other jurisdictional boundaries. Finally, the new law amends and extends (through FY2008) the authority of certain programs under the Family Violence and Prevention Services Act. Among the new provisions is a requirement that HHS reserve some portion of any funds appropriated above $130 million for state family violence prevention grants to fund entities that provide services to children who witness domestic violence. (For more background information and discussion of issues, see CRS Report RL30923, *Child Abuse Prevention and Treatment Act: Reauthorization Proposals in the 107th Congress.*)

After agreement was reached on the CAPTA reauthorization, two additional proposals to amend CAPTA were introduced. H.R. 2541 (introduced by Representative Moore) would have amended CAPTA to require public disclosure of findings or information about a case of child abuse or neglect that results in the child's death, near-death, other serious injury, or a felony conviction (if such disclosure is determined appropriate by a judge and is in accordance with applicable law). H.R. 2582 (introduced by Representative Deutsch) would have amended

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[8] In November 2004, P.L. 108-446 reauthorized the Individuals with Disabilities Education Act (IDEA), and that law makes a similar requirement of states seeking Part C funding. States must include in their application

> a description of the State policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who (A) is involved in a substantiated case of child abuse or neglect; or (B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.

The conference report accompanying the IDEA reauthorization agreement (H. Rept 108-779) notes that every child referred to by this provision is to be "screened" to

> determine whether a referral for an evaluation for early intervention services under Part C is warranted. If the screening indicates the need for a referral, the Conferees expect a referral to be made. However, the Conferees do not intend this provision to require every child described [by it] to receive an evaluation or early intervention services under Part C.

H. Rept 108-779, p. 241. In 2002 states reported close to 198,000 children under the age of 3 who were victims of child maltreatment; a comparable number of children prenatally exposed to alcohol or other drugs is not known.

CAPTA to require that state foster care agencies report to law enforcement authorities any information they have about a missing foster child as soon as they determine the child is missing.

Waivers. P.L. 108-308, which was signed into law on September 30, 2004, extends the authority of HHS to grant states waivers of certain federal child welfare requirements through March 31, 2005.[9] That law also extended the current TANF provisions through the end of June. Both the House-passed and the Senate Finance Committee-approved versions of H.R. 4 in the 108th Congress — which would have primarily extended and amended TANF on a multiyear basis — would have given HHS authority to grant child welfare waivers through FY2008. However, the House-passed bill sought additional changes to the waiver provisions that were not included in the Senate Finance Committee-approved bill. The House-passed bill would have permitted HHS to approve an unlimited number of child welfare demonstration projects (currently authority is limited to 10 projects annually). It would also have prohibited HHS from limiting the number of demonstrations (or waivers) approved for a single state or from denying a demonstration project simply because the policy alternative is already being tested (or may be tested) in another state. Finally, the House-passed H.R. 4 also would have required HHS to streamline its child welfare waiver approval process and make evaluation reports available to states or other interested parties. Each of the House-passed child welfare waiver provisions was also included in the subsequently introduced H.R. 4856, which primarily sought to restructure federal child welfare financing. (More discussion of H.R. 4856 is included under **Child Welfare Financing**.)

Child welfare waivers allow states to use federal funds to test new services without meeting all of the federal child welfare requirements specified in Title IV-B and Title IV-E of the Social Security Act. The proposed demonstration program or service must be designed to accomplish the same goals as those federal child welfare programs, must be cost-neutral to the federal government, and must be formally evaluated. (Further, certain specified federal protections afforded children in the public child welfare system may not be waived in any case.) Between 1996 and 2001 a total of 25 demonstration components were approved and implemented in 17 states. Of these, 13 (located in 11 states) have been completed or were terminated early by the state, and there are 12 ongoing components located in 9 states (CA, IL, IN, MT, NH, NM, NC, OH, OR).

Demonstration projects are typically granted a five-year term, and a number of the ongoing components are operating on the basis of temporary extensions granted by HHS and pending review of their final evaluation reports. As of January 2005, Delaware is the only state to request, and be denied, a full term extension; and four of the states with ongoing components have been granted full five-year extensions:

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[9] Authority to grant child welfare waivers expired with the start of FY2002 but was reinstated by P.L.108-40 (through the end of FY2003), extended again (through March 31, 2004) by P.L. 108-89, extended through June 30, 2004, by P.L. 108-210 and extended through September 30, 2004 by P.L. 108-262.

Illinois (for its subsidized guardianship project), and Oregon, North Carolina, and Ohio (each for their flexible funding demonstrations).[10]

In November 2003, HHS solicited new child welfare demonstration proposals from states. The last solicitation for these proposals had been issued in February 2000 for FY2000 and FY2001.[11] In this past solicitation, the Department had expressed its preference for approving projects in states not previously granted authority to operate a demonstration project and for projects that test unique policy alternatives. In its latest call for proposals, however, HHS indicated that it would not necessarily be bound by these prior policies.[12]

As of January 2005, 15 states had submitted formal proposals seeking approval of new waiver projects (AK, AZ, CA, FL, ME, MI, MN, MO, NH, NJ, NM, IA, VA, WA, and WI), and two of those proposals have thus far been approved (MN and WI). Half of the states submitting proposals (AK, IA, ME, MI, NJ, VA, WI) seek to use Title IV-E funds to establish various kinds of subsidized guardianship programs, including Wisconsin's, which has been approved.[13] Minnesota's approved waiver will allow the state to use Title IV-E to enhance its current guardianship and adoption assistance payments. Two states (NM, WA) requested waivers to establish a variety of services for kin care providers, which might include some limited financial assistance. The remaining proposals are related to flexible funding, provision of wraparound or preventive services, intervention in cases of chronic neglect, alternative or intensive case management services, and other reunification services.[14] (For more information on child welfare waivers, see CRS Report RL31964, *Child Welfare Waiver Demonstrations*.)

Child Welfare Financing

Concerns about the way federal child welfare funds are distributed prompted several proposals for change in the 108th Congress. Currently federal funds dedicated to child welfare (primarily under Title IV-B and Title IV-E of the Social Security Act) go to states through a complex package of grants, with different allocation formulas and matching requirements. The bulk of this *dedicated* federal child welfare funding is available for children who have been maltreated and have been removed from their homes. Observers of the current methods of distributing federal child welfare dollars generally concede one, or all, of the following points —

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[10] Information regarding waiver findings as of May 2004 is available on the Children's Bureau website at [http://www.acf.dhhs.gov/programs/cb/initiatives/cwwaiver.htm].

[11] ACYF-CB-IM-00-01, Feb. 4, 2000, available at [http://www.acf.dhhs.gov/programs/cb/laws/im/im0001.htm].

[12] The new solicitation of child welfare waiver projects, ACYF-CB-IM-03-06, Nov. 24, 2003, available at [http://www.acf.dhhs.gov/programs/cb/laws/im/im0306.htm].

[13] Wisconsin's approved waiver will also allow children who leave foster care for either adoption or subsidized guardianship at age 16 or older to retain eligibility for Title IV-E independent living services.

[14] A summary of most of these proposals is available at [http://www.acf.hhs.gov/programs/cb/initiatives/cwwaiver/proposals/index.htm].

- The largest portion of this dedicated federal funding is not available for use to protect children from abuse or neglect or to enable those children to receive services that would allow them to remain in their homes.

- Federal dollars dedicated for support to children in out-of-home placements generally pay for their room and board and some associated administrative costs; they are not permitted to be spent for other kinds of mental health or social services, which these children are likely to need.

- Federal eligibility rules — limiting state claims for reimbursement of foster care and adoption costs to children who were removed from homes that would have been eligible for Aid to Families with Dependent Children (AFDC), as that program existed in the given state on July 16, 1996 — are burdensome to administer, and, illogical (because children may need protection regardless of the financial circumstances of their biological family).

Apart from these concerns about the delivery to states of federal funds that are *dedicated* for child welfare purposes, an understanding of federal financing of child welfare programs is further complicated by the discretionary use states make of non-dedicated federal funds. These federal dollars are not specifically, or solely, authorized for child welfare purposes but may be used for those purposes. The three largest sources of these *non-dedicated* funds are the TANF block grant, the Social Services Block Grant (SSBG) and Medicaid. An Urban Institute survey of state child welfare expenditures for FY2002 showed that while uses of these federal funds varied greatly by state, nationally states spent about $4.7 billion from these three sources — or an estimated 43% of all federal funds expended by states for child welfare purposes in that year. This represents a 11% increase in the use of these funds for child welfare compared to findings by the Urban Institute in its survey of state FY2000 expenditures.[15]

There are few child welfare advocates who fully support the financing status quo, but some are reluctant to accept changes that might jeopardize the current open-ended entitlement nature of federal foster care and adoption assistance funding.[16] This is especially true of advocates and administrators who fear the loss of non-dedicated funding (i.e. TANF, Medicaid, SSBG) for child welfare purposes. Further, while states and child welfare advocates seek greater flexibility in the use of federal child welfare dollars, some also argue that the system is fundamentally underfunded and that increased flexibility without additional dollars will not

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[15] Cynthia Andrews Scarcella, Roseanna Bess, Erica Hecht Zielewski, Lindsay Warner, and Rob Geen, *The Cost of Protecting Vulnerable Children,* IV (Washington: Urban Institute, Dec. 2004), pp. 22-23.

[16] Funds available on an "open-ended entitlement" are not subject to the discretion of the annual appropriations process (i.e., Congress must appropriate the full amount to which states are entitled) and every eligible claim submitted by a state must be reimbursed, regardless of the total cost to the federal treasury (i.e., they are open-ended).

guarantee improvements. Finally, policymakers, even those who support increased flexibility, remain concerned that increased flexibility, with or without new funds, might result in a loss of accountability. In sum, while many observers believe that the current child welfare financing system is counterproductive to the interests of children and families, no consensus exists on a method of reform. Proposals for change introduced or otherwise proposed during the 108th Congress are discussed below.

President's Child Welfare Option. The President's FY2005 budget, re-proposed, but did not elaborate on, the Administration's FY2004 budget request to offer states an alternative method for financing their child welfare system. According to the Administration FY2004 budget documents, this option was intended to "serve as an incentive [for states] to create innovative child welfare plans with a strong emphasis on prevention and family support."

No specific legislative language to enact this plan was introduced in the 108th Congress. However, the Administration indicated that under this "flexible funding" plan, states could opt to receive their foster care funding as an annual pre-established, capped, grant amount, would be able to use these funds for the full range of child welfare services — from family preservation and other services designed to prevent placement through provision of foster care and placement for adoption — and would no longer need to determine a child's federal foster care eligibility status in order to use federal funds on the child's behalf. At the same time states would be required to uphold existing child safety protections, agree to maintain existing levels of state investment in child welfare programs, and continue to participate in the HHS-administered Child and Family Services Reviews (to ensure compliance with federal child welfare policy). States experiencing a "severe foster care crisis" would, under certain circumstances, be able to tap TANF continency funds to meet this unanticipated need, and states choosing the alternative financing plan could also opt to declare all foster care children eligible for Medicaid. (Current law provides automatic Medicaid eligibility to foster care children who are eligible for *federal* foster care assistance only.) Finally, the President's proposal included a $30 million set-aside to be available for Indian tribes (tribes are currently not eligible to directly receive federal foster care funds under Title IV-E of the Social Security Act) and a one-third of 1% set-aside for monitoring and technical assistance of state foster care programs.

Pew Commission Recommendations and the Child SAFE Act. In May 2004, the Pew Commission on Children in Foster Care, co-chaired by former Representatives Gray and Frenzel, released a set of recommendations to restructure the current federal child welfare system.[17] Some of these recommendations were made a part of the Child Safety and Family Enhancement Act (Child SAFE Act), which was introduced in July by Representative Herger (H.R. 4856).[18]

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[17] Pew Commission on Children in Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care,* May 2004. The full report is available online at [http://pewfostercare.org/research/docs/FinalReport.pdf].

[18] For a side-by-side comparison of current law and these proposals, request a copy of the (continued...)

Foster care, adoption assistance, and guardianship. The Pew Commission recommendations include removing the income eligibility requirements for adoption assistance and foster care maintenance payments, which would expand eligibility for these federal dollars. The Commission also recommends creating a new federal funding stream to reimburse states for payments made on behalf of eligible children who leave foster care for subsidized guardianship. Reimbursement to states for costs associated with foster care maintenance, adoption assistance, and subsidized guardianship would continue (or be established) on an open-ended entitlement basis but the federal matching rate for each state (which currently may range from 50% to 83% depending on the state's per capita income) would be reduced by 35% (i.e., new federal matching range of, roughly, 33% to 54%, subject to adjustment).[19]

The Child SAFE Act (H.R. 4856) would also have expanded eligibility for adoption assistance and foster care maintenance payments by removing income eligibility requirements, but it did not propose new federal funding for subsidized guardianship. Like the Pew Commission, H.R. 4856 would have maintained the current open-ended entitlement funding for adoption assistance but it would have provided for a greater federal matching rate for adoption assistance than would the Pew Commission (potential federal matching range of 43% to 71%). Unlike the Pew Commission, H.R. 4856 would have placed an annual cap on the guaranteed federal foster care maintenance payment funding while at the same time reducing the federal matching rate for eligible foster care maintenance payment claims by 35% (as proposed by the Pew Commission). The overall annual cap would have been established by mandatory funding levels included in H.R. 4856, and each state would have had access to these mandatory funds up to its share of the total FY2003 federal expenditures for foster care maintenance payments. In FY2003, the federal government expended an estimated $1.722 billion in foster care maintenance payments; H.R. 4856 proposed funding of $1.836 billion in FY2005 rising each year to $2.210 billion in FY2014.[20] And, as also suggested in the President's Child

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[18] (...continued)
CRS Congressional Distribution Memorandum, "Child Welfare Funding in Titles IV-B and IV-E of the Social Security Act (Current Law) and as separately proposed by the Pew Commission on Children in Foster Care and by the Child Safety and Family Enhancement (Child SAFE) Act (H.R. 4856)," Aug. 4, 2004, by (name redacted).

[19] States that currently are able to claim the greatest percentage of their caseloads as eligible for Title IV-E assistance would likely lose money under a straightforward implementation of this approach. The Commission, which sought to make this part of its proposal cost neutral to both the federal government and the states, therefore recommended that states continue to determine Title IV-E eligibility as they have in the past for an additional three years; states that would have lost money under the proposal would be made whole by redistributing dollars that would have gone to states that won increased funding under the proposal. At the conclusion of the three years, the commission recommends that the states discontinue determining Title IV-E eligibility under the old terms and that they negotiate a permanent claims adjustment rate. Thus the final federal matching rate available under the Pew Commission recommendation is not certain.

[20] To access their share of the capped entitlement funds for foster care maintenance payments, states would need to submit eligible claims, which would be matched at 65% of their current matching rate (i.e., federal match of roughly 33% to 54%). States that currently (continued...)

Welfare Option, the legislation would have provided that states experiencing a "severe foster care crisis" could access additional funds for foster care maintenance payments out of the TANF contingency fund.

Services, administration, and training related to child welfare. As also recommended by the Pew Commission, H.R. 4856 would have created a single Safe Children, Strong Families grant by combining a variety of current federal funding streams. The grant would have provided states with a capped amount of guaranteed funding in each year. Currently the majority of federal funding for these purposes is available as an open-ended entitlement for eligible administration and training costs related to state foster care and adoption assistance programs (authorized under Title IV-E of the Social Security Act). All eligible state claims are matched at 50% for administrative costs and 75% for training costs. More limited discretionary and some capped entitlement funding is also available for services to children and their families (under Title IV-B of the Social Security Act). The federal government matches state spending for these purposes at 75%, up to the total amount of funding appropriated.

Under both the Pew Commission recommendations and H.R. 4856, the proposed Safe Children, Strong Families Grant could *not* have been used for foster care maintenance payments but would have been available for virtually any other child welfare purpose, including providing services to children and their families, casework support for children and other administrative costs, and training of child welfare, court and other relevant personnel. Both proposals would also have provided an initial grant of guaranteed federal dollars of approximately $3.9 billion (which is about $200 million more than the FY2003 funding for these purposes). H.R. 4856 would have additionally included an authorization for discretionary funding up to $200 million in each of the next 10 years. States would have received a share of the mandatory (and any discretionary money) based on their historic allocation of the prior funding streams. The Pew Commission proposes to increase the mandatory grant annually by 2% plus inflation (Consumer Price Index). By contrast, H.R. 4856 would have specified mandatory and increasing funding amounts for the grant for

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[20] (...continued)
receive federal reimbursement for a relatively small share of their foster care caseload could receive reimbursement for a greater share of their caseload — albeit at a lower matching rate than is provided by current law. However, a state could only receive funds up to its statutorily established cap, which would be based on the state's past share of foster care funding. For these states, then, the cap on funding might mean that not all eligible claims would be matched by the federal government. Alternatively, because of the reduced matching rate, states that currently have a high percentage of their foster care maintenance payment costs reimbursed by foster the federal government might not be able to access all of the funds reserved for their care maintenance payments in a given year. While these states might experience reduced access to federal foster care maintenance payment funding in the given year, H.R. 4856 would have given states the ability to bank any unused foster care funds for use in another year or to transfer those funds to their Safe Children, Strong Families Grant.

each of the next 10 fiscal years (FY2005-FY2014).[21] In order to receive these funds, both the Pew Commission and H.R. 4856 would have required states to match federal funds available to them. (The federal match would have been 68%.)

Additional changes proposed. Although in some instances important details varied, both the Pew Commission and H.R. 4856 proposed direct access to Title IV-E funding by Indian tribes, continued open-ended entitlement funding (50% federal matching rate) for development and implementation of the Statewide Automated Child Welfare Information System (SACWIS), expanded HHS authority to waive Title IV-E requirements (to allow states to experiment with new ways of using this funding), offered new funding to courts that handle child welfare cases, and continued reservation of funds for child welfare-related research and evaluation.

The two proposals also would have provided some new and revised incentive payments to states, although they differed significantly in their approach. The Pew Commission recommends replacing current adoption incentive payments with a permanency incentive (for achievement of lasting reunification, guardianship, or adoption) and would also provide an enhanced federal matching rate for the Safe Children, Strong Families Grant where a state showed increased competence and reduced caseloads among its child welfare workforce. H.R. 4856 would have retained adoption incentives as they currently exist and would have established a new Challenge Grant for states that significantly exceed most or all of the national standards associated with performance indicators now used in the Child and Family Services Reviews.

The Pew Commission also recommends that at least some of a state's assessed penalties for noncompliance with federal child welfare policy be used to implement a state's Program Improvement Plan (with this spending directed by HHS), and it urges periodic review, by an expert advisory panel, of the methodology and measures used in the Child and Family Services Reviews.

Other Child Welfare Funding Proposals. The Pew Commission recommendations and H.R. 4856 suggested comprehensive changes to the current method of distributing child welfare funds, and the President's proposal would have allowed states to make significant changes in the way they receive federal child welfare dollars. With the exception of H.R. 1534 (introduced by Representative Cardin) and the companion measures H.R. 936 and S. 448 (introduced by Representative George Miller and Senator Dodd), most of the bills introduced in the 108th Congress would have made more targeted changes to the federal child welfare financing structure. Measures introduced in the 108th Congress are discussed below.

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[21] Under H.R. 4856, states would claim their share of the total grant funding based on their average share of federal funding for the combined funding streams in FY2001-FY2003. The mandatory funding level for FY2005 would be $3.878 billion and would rise to $5.010 billion in FY2014. As noted, the legislation would also have permitted Congress to appropriate additional discretionary funds of $200 million to the mandatory amount in each year.

Eligibility for federal foster care and adoption assistance. H.R. 1534 and S. 367 (introduced by Senator Rockefeller) would have allowed states to substitute their TANF rules to determine a child's eligibility for federal foster care and adoption assistance. Alternatively, H.R. 936 (introduced by Representative George Miller) and S. 448 (introduced by Senator Dodd) were companion measures that would have removed all income eligibility criteria for purposes of determining whether a state can claim federal reimbursement of foster care and adoption assistance costs. These bills would also have set the federal matching rate for all Title IV-E components (including training, administration, and data collection) at a state's Medicaid matching rate; this rate may range from 50% to 83%. Finally, S. 862 (introduced by Senator Rockefeller), would have made several adjustments to eligibility rules for federal adoption assistance, including removing the current income-eligibility requirements.

Subsidized guardianship. A number of proposals in the 108th Congress, including the companion bills H.R. 936 and S. 448, H.R. 1534, the Pew Commission recommendations, and S. 2706 (introduced in July by Senators Clinton and Snowe) sought to provide federal reimbursement for subsidized guardianship payments. Guardianship is a legally created relationship between a child and an adult. Some states have received special waivers of federal Title IV-E requirements that have enabled them to provide subsidized guardianship payments on behalf of former foster care children; more states are seeking this waiver authority (see **Waivers**), and other states are using separate federal funds (e.g., TANF) or state dollars to provide subsidized guardianship payments for former foster children. Advocates of federal reimbursement for subsidized guardianship emphasize that these payments can eliminate the monetary barrier to finding a permanent placement option for certain children in foster care for whom neither adoption or reunification with their family is a possibility.

The proposals in the 108th Congress included similar legislative language or recommendations. They provided that the federal government would reimburse a part of every eligible guardianship payment on an open-ended entitlement basis and that payments would be available for children who were formerly in foster care (if those children were placed with relative care givers who had undergone criminal background checks, as currently prescribed by Title IV-E). Other than S. 2706, however, all the subsidized guardianship proposals in the 108th Congress were embedded in larger recommendations for changes to current law that would affect the universe of children on whose behalf a state could make reimbursement claims and/or the rate at which the federal government would match those claims.

Other new or expanded services. H.R. 1534 and H.R. 936/S. 448 also sought a range of new mandatory federal funds dedicated to child welfare services. H.R. 1534 would have added several capped entitlement programs under Title IV-B of the Social Security Act. The bill would have provided $100 million in each of FY2004-FY2008 to help states achieve required program improvements; $100 million in each of FY2004-FY2008 for state enhancement of their child welfare workforce or coordination of services; $100 million in FY2004, rising to $200 million in FY2008, for coordination and provision of substance abuse treatment to families involved with the child welfare system; and it would have made mandatory all of the current annual funding authority ($505 million) under the Promoting Safe

and Stable Families Program. (As authorized through FY2006, the program now receives $305 million in mandatory funds each year and up to $200 million in discretionary dollars.)

H.R. 936/S. 448 would have allowed open-ended federal matching funds under Title IV-E of the Social Security Act for a variety of new services. These were to include preventive, protective and crisis services; permanency services; independent living services; living expenses of former foster youths under the age of 22, (if they are in school or working and participating in an independent living program); and substance abuse treatment for families involved with the child welfare system. Separately S. 614 (Senator Snowe) would have provided $2 billion over five years to help states coordinate substance abuse services related to child welfare needs.

Federal support for training. H.R. 1534, as well as H.R. 1378 (introduced by Representative Weller), S. 669 (introduced by Senator Snowe), and H.R. 2437 (introduced by Representative Stark) each included language that would have allowed states to claim federal reimbursement for the short-term training of state-licensed or approved *private* child welfare agency staff at a matching rate of 75%. Currently states may claim reimbursement of this kind of training only at a 50% federal match, while reimbursement for costs associated with the long-term or short-term training or education of *public* state child welfare employees (or future employees) and the short-term training of current or prospective foster or adoptive parents and for staff at state-licensed or approved child care institutions may be claimed at a 75% federal matching rate. Both H.R. 1534 and H.R. 2437 would also have extended the 75% matching rate to short-term training for members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children, parents, or guardians ad litem, or other court-appointed special advocates representing children in abuse and neglect courts, and to other persons employed by state, local, or nonprofit child-serving agencies that work with the state or local child welfare agency to keep children safe, provide permanent families for them, and provide them with mental health services. Finally, S. 2706 would have extended the 75% open-ended federal reimbursement for training to include costs related to short-term training of current or prospective relative guardians. As noted earlier, both the Pew Commission and H.R. 4856 would have expanded the list of individuals for whom federal training funds could be used and would have included both private child welfare workers and court personnel who carry out child welfare related duties to this list. However, both of those proposals would also have capped federal funds available for child welfare training purposes. (See **Services, Administration and Training** subheading above.)

Other Child Welfare Issues

Interstate Placement of Children. On October 5, 2004, the House, under suspension of the rules, passed the Safe and Timely Interstate Placement of Foster Children Act of 2004 (H.R. 4504). The bill was introduced on June 3 by House Majority Leader Tom DeLay, and Senator Domenici, on September 8, 2004, introduced identical legislation (S. 2779). The Senate did not act on this legislation before the close of the 108th Congress.

The House-passed bill, which modified some of the original H.R. 4504 language, amended current Title IV-E state plan requirements and would have provided that states must complete and return a request from another state for a home study within 60 days of receiving the request (except that a state showing a reason for a delay that is out of its control could have up to 75 days for any home study begun on or before September 30, 2006), and that within 14 days of receiving the completed home study report, the state that requested it must make a decision about the use of that home study. The House-passed bill also included language intended to encourage each state to afford "full faith and credit" to home studies completed by another state, sought to remove legal or other barriers to the use of private agencies to complete interstate home studies, encouraged the use of such contracted services when necessary to expeditiously handle interstate home study requests, and would have amended the law to promote routine consideration of both in-state and out-of-state placement options as part of case reviews and permanency planning. H.R. 4504 would have required the Government Accountability Office (GAO) to make a study of how criminal records checks are done for child welfare purposes and what they include.[22]

The bill further would have authorized HHS to make incentive award payments to states that processed an interstate home study request within 30 days. States would have been required to submit certain data to verify their eligibility for the award and, based on the availability of funds, would have received up to $1,500 for each interstate home study completed within 30 days. H.R. 4504 would have authorized $10 million annually in each of FY2005-FY2008 for these incentive grants and would have repealed the incentive program at the end of FY2008.

Current federal law provides several protections specific to foster children who are placed across state lines. These include periodic reassessment of whether the out-of-state placement remains appropriate and a visit no less frequently than every 12 months to a child placed out-of-state. The House-passed H.R. 4504 would have required a visit at least once every six months and would have allowed private agency caseworkers (working under contract with a state agency) to make these visits. Current law requires that a state agency worker (either of the child's home state or the state where the child is placed) make the visit.[23]

The process of placing a child across state lines is generally governed by the Interstate Compact on the Placement of Children (ICPC). The ICPC is a kind of

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[22] These checks are sometimes cited as a source of delay for the completion of home studies. For more information on delays in interstate home studies generally, and regarding criminal records checks for child welfare purposes, see respectively *Understanding Delays in the Interstate Home Study Process* (Sept. 2002), at [http://aaicama.aphsa.org/home%20study%20report.pdf], and *Understanding Criminal Records Checks* (Oct. 2002), at [http://aaicama.aphsa.org/Survey-CRCF.pdf].

[23] Federal law includes a number of other provisions primarily concerning placement of children across state lines. These include a prohibition on the delay or denial of a child for adoption when an appropriate family is available but living in another state than the child and a requirement that states develop plans to make effective use of "cross-jurisdictional resources."

contract between all states, the District of Columbia, and the Virgin Islands — each of which has adopted the identical compact language as a part of their governing statutes. A compact regarding the interstate placement of foster children is widely viewed as an important protection for children, but the ICPC itself, which was drafted in 1960 and has not been significantly changed since then, is seen as outmoded and, in some cases as a contributor to delays in interstate placement. The House-passed H.R. 4504 included a sense of Congress calling for the states to "expeditiously" revise the ICPC.

The American Public Human Services Administration (APHSA), which provides secretariat services to the ICPC, has formally endorsed "comprehensive reform" of the ICPC. In late December 2004 an APHSA committee released for comment a draft of its proposed revised ICPC. Among changes proposed, the draft compact would limit the scope of placements covered by the compact; establish clear lines of financial responsibility and legal jurisdiction; provide for creation of binding rules, including rules that establish time frames for completion of home studies and those to establish uniform standards for reporting and collecting data. The draft compact would permit an "approved placement" only after a safety review and suitability review of the prospective home were completed. However, in the case of relative placements only, it would permit "provisional placement" of a child following a safety review and pending the suitability review. Finally the draft compact would establish an interstate authority, composed of a representative from each state in the compact, which would be given the power to make binding rules, resolve disputes between parties to the compact, and enforce penalties for non-compliance. This draft is expected to undergo revisions before March 2005, when a final draft will be presented to state human services administrators for a vote. If that draft is approved, the new compact language would need to be voted on in each state legislature and would not become effective until at least 35 states approved the compact, and in no case before July 1, 2007.

Safety and Other Issues in H.R. 4504. Beyond the issue of interstate placements, the House-passed H.R. 4504 proposed a few other changes intended to better ensure the safety of all children in foster care, protect youth aging out of foster care, and clarify the rights of foster care parents, pre-adoptive parents and relative caregivers. These changes would have amended current law to require that all states conform their criminal background checks to the standards included in the Adoption and Safe Families Act (i.e., eliminate the opt-out provision currently in Section 471(a)(20)(B)) and would have required all states to check child abuse and neglect registries before approving a prospective adoptive or foster parent.[24] The bill also sought to enhance the ability of foster and pre-adoptive parents and relative caregivers to be heard at any proceeding regarding a child in their care and would have required that state courts receiving Court Improvement funds (under Section 438 of the Social Security Act) notify these individuals of any such proceeding. The

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[24] Most child abuse and neglect proceedings are not considered criminal in nature. Thus current law requirements related to *criminal* record checks, only, do not capture most abuse and neglect findings. A survey conducted by APHSA in 2002 found that of the 49 states responding, 23 included checks of child abuse registries as part of approving foster care or adoptive placements.

bill would also have granted courts that place children for adoption or foster care access to the Federal Parent Locator Service for the purpose of locating a child's parent. Finally, it sought to strengthen requirements related to maintaining updated health and education records for children in foster care and specifically to require that a copy of those records be made available to any child who is exiting foster care because he or she has reached the age of majority in their state.

Kinship Care. As noted in the discussion of child welfare financing, a number of bills introduced in the 108th Congress called for federal reimbursement of guardianship payments, especially for kin who assume legal responsibility for children in foster care. (See **Subsidized Guardianship**.) Similar or related proposals may be introduced in the 109th Congress. Separately , the 108th Congress enacted legislation intended to assist elderly kinship care providers find affordable housing. In December 2003, the LEGACY Act (Living Equitably: Grandparents Aiding Children and Youth Act) was enacted as Title II of P.L. 108-186. The law requires the Department of Housing and Urban Development (HUD) to make grants designed to improve and increase the availability of "intergenerational dwelling units" and to ensure provision of other needed services for grandparents caring for their grandchildren. The legislation authorizes appropriations of $10 million for grants to no more than four private nonprofits and requires HUD to report on the effectiveness of these demonstration projects no later than December 16, 2006. Authorization for this grant program is repealed after five years. P.L. 108-186 also requires HUD to ensure that appropriate field office personnel and headquarter staff receive training concerning how grandparents or other elderly relatives caring for children can be served under existing affordable housing programs and further provides that HUD and the Census Bureau must jointly conduct a study to (1) determine both the number of families in which grandparents or elderly relatives are caring for children and the affordable housing needs of those families, and (2) to make recommendations regarding how major HUD-assisted housing programs can be used, or amended to meet those needs. The report was to be submitted to Congress by December 16, 2004.

S. 2706, which proposed allowing states to secure federal support for subsidized guardianship under Title IV-E of the Social Security Act, would also have made available a guardianship payment demonstration program for metropolitan agencies (e.g., counties) within states that did not opt to provide subsidized guardianship payments under Title IV-E. The legislation also proposed a number of additional supports to kinship caregivers, including a "kinship navigator" grant program. The purpose of such a program would be to establish information and referral systems to assist caregivers in accessing existing financial and other supports; promote partnerships between public and private agencies to better serve kinship caregivers; establish and support kinship care ombudsmen, and support other activities "designed to assist kinship caregivers in obtaining benefits, services, and activities designed to improve their caregiving." S. 2706 sought to authorize $25 million in FY2005 rising to $75 million in FY2007 for this grant program. Eligible grantees would have been a state agency, metropolitan agency, or tribal organization with experience in addressing the needs of kinship caregivers or children and jurisdiction over a relevant area (e.g., child welfare, income-based financial assistance, or aging office). However, HHS would have been required to award at least half of the grant funding to state agencies. The grants could not exceed three years in duration; federal funding

would be 100% in the first year of the grant period, and 75% or 50% respectively in years two and three of the grant period (if applicable).

As amended by P.L. 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act) Title IV-E requires states to "consider giving preference" to relative caregivers when determination of a child's placement is being made. S. 2706 would have amended this provision to further require that within 60 days of a child's removal from his or her home, a state must notify grandparents or other adult relatives of the child of this removal and explain the options the relative has under local, state, or federal law to participate in a child's care and placement.

Data Collection and Reporting. Currently states receiving federal foster care funds are required to submit caseload characteristic data twice a year through the Adoption and Foster Care Analysis and Reporting System (AFCARS). The data can be used for program management to enhance state performance and are now used, in part, to determine a state's compliance with certain federal child welfare policies. Although the data are considered improved from the first years of reporting, concerns about AFCARS data reliability persist.[25] In addition, some states and researchers believe that the measurements currently taken may not accurately reflect the program improvements states have achieved. The House Ways and Means Subcommittee on Human Resources held a hearing on November 19, 2003, to assess what data are now collected, how they are or might be used, and what additional data might be gathered to enhance safety, permanence, and well-being for foster care children.[26] In May 2004, the Pew Commission on Children in Foster Care recommended that Child and Family Services Reviews incorporate "better measures of child well-being" and use longitudinal data to "yield more accurate assessments of performance over time."[27]

The Adoption Promotion Act (P.L. 108-145), which became effective with the first day of FY2004, authorizes financial penalties for states that submit late or inadequate AFCARS data. These penalties were previously established in regulation, but HHS announced in January 2002 that it would withhold further penalties after a Departmental Appeals Board ruling found they were not authorized in the statute. The new law explicitly grants HHS authority to penalize states for failing to meet federal data submission requirements. It establishes that HHS must notify states, within 30 days after the date that AFCARS data are due to be submitted, of any failure by the state to submit the data as required in the regulation; HHS must also give notice at that time that federal payments will be reduced to the state if the data are not correctly re-submitted within six months. If the state does not meet this six-month deadline, federal payments for administrative claims associated with foster care must be reduced by 1/6 of 1% of the state's total expenditures in the first quarter

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[25] U.S. Department of Health and Human Services, Office of Inspector General, *Adoption and Foster Care Analysis and Reporting System (AFCARS): Challenges and Limitations*, Mar. 2003, available at [http://oig.hhs.gov/oei/reports/oei-07-01-00660.pdf].

[26] The hearing testimony and related documents may be viewed at [http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=114&comm=2].

[27] Pew Commission, *Fostering the Future*, pp. 28-30. The Commission recommends that a National Academy of Sciences panel be convened to recommend best outcomes and measures to be used in child welfare data collection.

of this failure and 1/4 of 1% in the second and any subsequent quarters. In a February 2004 Information Memorandum, HHS reviewed the new penalty structure placed in law and stated that it will not reinstate AFCARS penalties until new final regulations implementing P.L. 108-145 are issued.[28]

H.R. 1534 would have required HHS to provide Congress with recommendations on improving the quality and usefulness of data being collected through AFCARS. The recommendations were to be developed in consultation with state child welfare agencies and other experts. H.R. 1534 would also have required HHS to consider modifying AFCARS to include (1) collection and analysis of data that could track a single foster care child across time (longitudinal data); (2) analysis of groups of children who enter or exit the system within the same period of time (entry and exit cohort data); and (3) a measure of adoption disruption.

On April 28, 2003, HHS published a request for comment on ways to improve AFCARS. The agency stated its particular interest in obtaining input on the specific strengths or weaknesses of AFCARS; suggestions for areas of improvement, including ideas about how the suggested improvement could be made and how the federal government could facilitate the changes; data elements currently in AFCARS that could be deleted and any elements that should be added; and strategies to improve data quality for AFCARS, including the use of incentives. Comments were also invited based on individuals' use of the current characteristic and financial data collected and on the structure of the data file and how it is submitted.[29]

Student Loan Forgiveness. S. 407, S. 409, H.R. 734, and H.R. 2437 sought to encourage better-trained, higher-quality workers and greater longevity in the fields by offering limited student loan forgiveness to professionals providing social services to children and families. S. 407 (introduced by Senator DeWine) would have amended the Higher Education Act of 1965 to provide student loan forgiveness for attorneys who receive training in family, juvenile, or domestic relations law, and who go on to represent low-income families or individuals involved in the family or domestic relations court systems. This loan forgiveness would have ranged from 20% for attorneys who spend at least three consecutive years in the field to 50% for those who spend at least five years in this kind of employment. The bill would have authorized up to $20 million in FY2004 and such sums as necessary for FY2005 through FY2008. H.R. 734 (introduced by Representative Stephanie Jones) and S. 409 (introduced by Senator DeWine) would have provided the same level of funding authorization and similar loan forgiveness terms for individuals who receive a graduate or undergraduate degree in social work and then find employment with a public or (certain) private child welfare agencies. Finally, H.R. 2437 would have amended the Higher Education Act of 1965 to provide student loan forgiveness for individuals whose social work studies, or other related higher education studies,

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[28] ACYF-CB-IM-04-04, issued February 17, 2004 and available at [http://www.acf.dhhs.gov/programs/cb/laws/im/im0404.pdf].

[29] U.S. Department of Health and Human Services, Administration for Children and Families, "Request for Public Comment on the Improvement of the Adoption and Foster Care Analysis and Reporting System (AFCARS)," 69 *Federal Register* 22386, Apr. 28, 2003.

focus on serving children and families and who had been employed for at least two consecutive years as child welfare workers. Under this proposal, the loan forgiveness would have ranged from 20% for workers with the minimum two years of service to 30% for those with four or five consecutive years of service. This bill would have authorized up to $10 million in each of five years for this purpose. All four of the proposed student loan forgiveness bills would have required HHS to evaluate their effectiveness.

Tax Provisions Related to Adoption. As a part of the Economic Growth and Tax Reconciliation Act of 2001 (P.L. 107-16), the 107th Congress expanded the adoption tax credit and made it a "permanent" part of the Internal Revenue Code. However, that same law provides that the tax changes it contained are to expire (or "sunset") in 2010. H.R. 1057 (introduced by Representative DeMint) and passed by the House in September 2004, would have exempted changes made to the adoption tax credit from this sunset provision. However, neither H.R. 1057, nor the identical S. 1931 (introduced by Senator Bunning) were taken up by the Senate before the close of the 108th Congress.[30]

Legislation introduced by Representative Peter King (H.R. 584) and Senator Lisa Murkowski (S. 2316) would have amended the Internal Revenue Code to ensure that adoptive parents could, without penalty, withdraw funds from an Individual Retirement Account (IRA) in order to finance an adoption. In general, individuals would be allowed to withdraw up to $10,000 for certain adoption expenses (generally those "qualified adoption expenses" not already covered by the adoption tax credit). Parents who adopted a "special needs" child would have been allowed to make penalty-free withdrawals on a somewhat broader basis.

Tribal Child Welfare Issues. As noted above, tribes are currently not eligible to directly receive federal foster care and adoption assistance funds under Title IV-E of the Social Security Act. Although the specifics vary, H.R. 4856, along with the President's optional child welfare financing system and the recommendations offered by the Pew Commission, would have allowed direct federal funding to tribes for Title IV-E purposes.[31]

In addition, Representative Camp (H.R. 443) and Senator Daschle (S. 331) introduced identical bills in the 108th Congress that would have granted new authority to tribes to operate foster care and adoption assistance programs on the

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[30] Changes made by P.L. 107-16 doubled the existing adoption tax credit (from $5,000 to $10,000), made the full credit available to families with incomes up to $150,000 (previously the phase-out began at $75,000), and provided for a cost-of-living inflation adjustment of this credit. As of the 2004 tax year, adoptive parents may claim the $10,390 credit up to the full amount of their qualified adoption expenses; beginning in tax year 2003, parents who finalized the adoption of children with special needs may claim the entire adoption tax credit amount regardless of their actual adoption expenses.

[31] For a side-by-side review of differences in the proposals see "Tribes" in the CRS Congressional Distribution Memorandum, "Child Welfare Funding in Titles IV-B and IV-E of the Social Security Act (Current Law) and as separately proposed by the Pew Commission on Children in Foster Care and by the Child Safety and Family Enhancement (Child SAFE) Act (H.R. 4856)," Aug. 4, 2004, by (name redacted).

same general financing basis currently available to states. Those bills provided that tribal programs would define the service area where their plan was to be in effect and would be able to grant approval of foster care homes based on tribal standards that ensure the safety of children, but would otherwise need to comply with all federal program provisions that apply to states. (However, the HHS Secretary could have waived any requirement if he found doing so would "advance the best interests and safety of the children" served by the tribal plan.) Tribes that currently have agreements with a state to receive some Title IV-E reimbursement would be allowed to continue those agreements. The provisions of H.R. 443 and S. 331 were similar to those reported in the 107th Congress by the Senate Finance Committee (H.R. 4737). At that time, the Congressional Budget Office estimated their cost at $12 million for FY2004 and $398 million over the FY2004-FY2012 period.[32]

Additional legislation relevant to tribal child welfare included H.R. 4 (TANF reauthorization), which passed the House early in the 108th Congress but was not considered on the Senate floor. That bill would have set-aside $2 million for demonstration projects designed to test the effectiveness of tribes in coordinating child welfare and TANF services to tribal families at risk of child abuse or neglect; S. 1601 (introduced by Senator Nighthorse Campbell), would have amended and reauthorized the Indian Child Protection and Family Violence Prevention Act and passed the Senate by unanimous consent in September 2004; it was not considered in the House before the close of the 108th Congress. Finally, H.R. 2750 (introduced by Representative Don Young), sought to amend the Indian Child Welfare Act.

Support for Current and Former Foster Care Children and Youth. As introduced by Representative Millender-McDonald H.R. 1401 sought to provide money to states for support of networks of public and private community entities that offer mentors to children in foster care. It would have authorized funding of $15 million for this purpose in each of FY2004 and FY2005, and such sums as necessary in succeeding years. In addition, it would have allowed HHS to award a grant for establishment of a National Hotline Service or website to provide information to individuals interested in becoming mentors to youth in foster care. Funding for this grant was to be authorized at $4 million for each of FY2004 and FY2005 and such sums as necessary for each succeeding fiscal year. A nearly identical version of this bill (which would also have allowed direct grants to local political subdivisions) was subsequently introduced by Representative Millender-McDonald as H.R. 2880 and by Senator Landrieu as S. 1419.

H.R. 4003, introduced by Representative George Miller, sought to amend Title IV of the Higher Education Act to establish separate grants to public and private institutions of higher education (1) to provide technical assistance and supportive services, including education and financial aid counseling or other appropriate services to foster care youth; and (2) to ensure basic housing for foster care youth

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[32] The major differences between the earlier reported language (H.R. 4737, 107th Congress) and provisions introduced in the 108th Congress (S. 331 and H.R. 443) are that the bill reported in the 107th Congress included a separate definition of "tribe" for native groups in Alaska and would have required that those Alaska groups meet the same federal foster care home requirements that states must meet.

who are living in college dormitories during the regular school year and during school breaks (excluding the summer break). The bill would have allowed a part of a foster care youth's cost of living to be added to the "cost of attendance" figure, which is used in determining financial need for college students. Finally it sought other revisions of law designed to expand access to federal financial aid for foster care youth, identify the number of such youth who apply for such aid, and track the number of former foster care youth who complete an undergraduate degree. For these purposes, H.R. 4003 would have defined "foster care youth" to include youth who are currently in care, or who were in foster care at age 18 and who are in high school or college.

Preventing Voluntary Relinquishments for Mental Health Reasons. The Keeping Families Together Act (S. 1704, introduced by Senator Collins, and H.R. 3243, introduced by Representative Ramstad) would have amended Title V of the Public Health Act to authorize competitive "family support grants" for states seeking to establish systems of mental health care and services that would prevent the practice of parents relinquishing their children to child welfare or juvenile justice custody in order to obtain mental health services for their children. The General Accounting Office reported in April 2003 that a survey of 19 state child welfare directors and juvenile justice officials in 30 counties had produced a conservative estimate of 12,700 children who during FY2001 were placed in child welfare or juvenile justice custody so that the children could receive mental health services. State and county officials surveyed by GAO reported that limitations of public and private health insurance, inadequate supplies of mental health services, limited availability of services through mental health agencies and schools, and difficulty meeting eligibility rules of services influenced these kind of placements.[33]

S. 1704/H.R. 3243 sought to authorize $4.5 million for FY2004, $6.5 million for FY2005, and $11 million in each of FY2006 through FY2009 to award grant funds to states to establish a "sustainable system of care" for children and youth (under the age of 21) who are in state custody to receive mental health services or who are at risk of this placement. States winning grant funds could have used them to deliver mental health care and family support services to these children and their families, but only as part of a transition to this "sustainable system." The grant funds, which would have been received over six years and would have required increasing levels of state matching funds beginning with year 3, could also have been used by states to establish a state and local infrastructure that permits interagency cooperation and cross-system financing; expand public health insurance programs to cover an array of community-based mental health and family support services; provide outreach and public education; provide the necessary training and professional development for personnel who work with eligible children and youth to implement the state's plan; and for administration of the plan, including development and maintenance of data systems. The state's plan would have been submitted in the second year of the grant and, among other things, would have described how the planned system of care would be financed — including contributions from state

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[33] U.S. General Accounting Office, *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services*, GAO-03-397, Apr. 2003.

agencies, state use of funds via Medicaid options or waivers or the State Children's Health Insurance Program (SCHIP), and other public health insurance mechanisms.

The grants were to be administered by the HHS administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) in consultation with officials of the Administration for Children and Families (ACF) and the Centers for Medicaid and Medicare Services (CMS), also at HHS, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) at the Department of Justice, and the Assistant Secretary of Education for Special Education at the Department of Education. SAMHSA, along with each of the above-named agencies, would also have been required to establish and staff a task force to examine problems of mental health in the child welfare and juvenile justice systems, along with access by children and youth to mental health services and the role of agencies in promoting access to these services for children and youth. The task force would work with stakeholders in the system to make recommendations to Congress on how to improve delivery of mental health services to children and youth with serious emotional disturbances; develop improved reporting requirements concerning the numbers of children entering child welfare and juvenile justice systems to access mental health services and create standard definitions for categories of data to be collected; encourage interagency cooperation to eliminate the practice of custody relinquishment; provide advice to SAMHSA on administering the family support grant program; coordinate and deliver technical assistance for states and agencies implementing the grant program; make recommendations for breaking down barriers to coordination in existing federal programs; and, finally, provide a biannual report to Congress on its recommendations and progress in carrying out its duties. S. 1740/H.R. 3243 sought to appropriate $1 million in each of FY2004 through FY2009 to fund this task force.

Recruitment of Foster Care and Adoptive Parents. As introduced by Representative Jim Cooper, H.R. 4431 would have created a competitive grant program (modeled after the "One Church, One Child" program) that supported the establishment or expansion of programs that use networks of public, private, and faith-based organizations to recruit and train qualified foster parents and adoptive parents and to provide support services to foster and adoptive parents and their children. Eligible applicants would have included state or local governments, local public agencies, community-based nonprofits, and charitable or faith-based organizations. H.R. 4431 would have authorized up to $20 million in each of FY2005-FY2009 for this purpose. In addition, the legislation would have required HHS to report annually on the grants made and the effectiveness of those grants. And it would have separately authorized up to $1 million in each of FY2005-FY2009 for the creation of a National Clearinghouse for Adoption Promotion and Foster Parent Recruitment Programs.

TANF Reauthorization. The TANF reauthorization debate remains unfinished, as Congress has continued the block grant via temporary extension only. Apart from the child welfare waiver language, described earlier, some child welfare-related measures were included in the comprehensive TANF reauthorization legislation passed by the House on February 13, 2003 (H.R. 4) and reported by the Senate Finance Committee in October 2003 (S.Rept. 108-162).

Improve child well-being and reduce child poverty. Congress considered several proposals to amend the purposes and/or practice of TANF to explicitly address the issues of child well-being and child poverty. Because a majority of children who enter the public child-welfare system come from poor families, and a major goal of the system is to ensure and improve their well-being, TANF policies are important to child welfare advocates, workers, and clients.

As passed by the House in February 2003, H.R. 4 would have made improving child well-being the overarching goal of each of TANF's four stated purposes and would have amended one of the current law goals to include reducing family poverty. The House-passed bill would also have required HHS to develop "uniform performance measures" to determine how well states are achieving the stated purposes of the block grant funding. The Senate Finance Committee, which reported its version of the TANF reauthorization legislation in October 2003 (H.R. 4, S.Rept. 108-162), would also have required development of these performance measurements. However, that bill does not amend the overall purposes of TANF to explicitly include improvement of child well-being. At the same time, the Senate Finance Committee-approved version of H.R. 4 would have required states to address child (or where appropriate) adolescent well-being in each Family Self Sufficiency Plan (development of these plans would also be mandatory for TANF recipients). Additionally, both the House-passed and the Senate Finance Committee-approved versions of H.R. 4 would have required the Census Bureau to implement a new survey of program participation to assess outcomes of continued welfare reform on the economic and child well-being of low-income families. The Senate Finance Committee-approved bill would further have required the Commerce Department to produce reports for Congress on the survey findings at the second and fifth year following enactment of the legislation.

Sanctions. Current TANF law requires states to impose a penalty on individuals who fail to meet work participation rules, and it allows states to choose between cutting a family's entire benefit or reducing some part of the benefit as a sanction for noncompliance. This means that a portion of some states' caseload consists of "child-only" cases where, because of failure to meet work or other rules, a parent (or other adult) is no longer receiving benefits on their own behalf, but the child(ren) in the family continue to receive aid. The House-passed H.R. 4 would have limited this kind of "child-only" case by requiring that after two months of an adult failing to meet established work requirements (without good cause), a state must end the entire benefit for the family of which the noncomplying adult is a part. Continuing benefits to the child(ren) in the family, using federal TANF or state Maintenance of Effort funds, would not have been allowed. (The House-passed H.R. 4 would have provided an exemption for states whose constitution or statute prohibits a full family sanction, but this exemption would have expired within one year of enactment of this provision.) The Senate Finance Committee bill did not amend these sanction provisions. Both the House-passed and Senate Finance Committee-approved versions of H.R. 4 would have newly required states to report on the number of families (and total number of individuals) that lost TANF assistance due to sanctions or time limits, or for other specified reasons.

President's FY2005 Budget Request

As in past years, the President's FY2005 budget requested a total of $505 million for the Promoting Safe and Stable Families program and a total of $60 million for Education and Training Vouchers to former foster care youth. These amounts represent the full funding authorizations proposed by the Administration in 2001 and passed by Congress late that same year (P.L. 107-133). However, Congress did not appropriate the full funding authorization in either FY2004 or FY2005. (See **Table 1.**) In addition, the President's FY2005 budget proposed a total of $133.3 million for three grant programs authorized under the Child Abuse Prevention and Treatment Act. These same programs were funded at $89.5 million in FY2004 but received an estimated $101.8 million in FY2005. The FY2005 funding followed the pattern of the President's request — increased funding for CAPTA's Basic State Grants and Community-Based Grants for the Prevention of Child Abuse, along with reduced funding for CAPTA's Discretionary Grants — but did not match the level of proposed increases or decreases. (See **Table 1.**) The President's FY2005 proposal sought $42 million for Basic State Grants, a little less than twice their $21.9 million funding level in FY2004 and $65 million for the newly renamed Community-Based Grants for the Prevention of Child Abuse and Neglect, which received $33.2 million for FY2004. At the same time it sought to decrease (by $8.1 million) funding for CAPTA's Discretionary Grants.

The Administration's Budget Justifications argue that the increased funding for Basic State Grants and Community-Based Grants for the Prevention of Child Abuse and Neglect would strengthen state child abuse prevention and treatment efforts by assisting them in meeting new "prevention-related" eligibility requirements included in the Keeping Children and Families Safe Act of 2003 (P.L. 108-36) and by enabling states to provide more post-investigative services to children, improve the capacity of their community-based programs to measure the effects of their work, and also allow these programs to serve more families. As in other years, the Administration explains the requested decrease in the Discretionary Grants as roughly equivalent to the amount of congressional earmarks attached to this grant program for the previous fiscal year. (See also the discussion of **Child Abuse Prevention and Treatment Act,** above.

The FY2005 President's budget renewed the Administration's call for an alternative child welfare financing option, although it did not propose any specific legislation for this purpose. (For more discussion of this proposal, see **Child Welfare Financing**, above.) Finally, noting that a March 2003 decision of the United States Court of Appeals for the Ninth Circuit (*Rosales v. Thompson)*[34] "contravenes the

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[34] 321 F.3d 835 (9th Cir., Mar. 3, 2003). The court of appeals ruled in this decision that a child could be eligible for federal foster care participation if he or she would have met the required AFDC-eligibility test either in the home of the parent or relative from which he or she was removed or in the home of a specified relative where he or she had been living at the time court proceedings were held. HHS has estimated that application of this ruling, in all nine states included in the Ninth Circuit, would cost the federal government $77 million in FY2005 and $375 million over five years. In California, where the case arose, the

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Department's longstanding interpretation of the Social Security Act," the Administration's FY2005 proposal stated its intention to seek an amendment of that act to clarify that "home of removal," for purposes of determining a child's eligibility for federal foster care assistance, is "linked inextricably" to the custodial relative's home from which the child is removed. No legislation to clarify this position was offered by the Administration during the 108th Congress.

Child Welfare Funding Levels

An omnibus funding measure containing FY2005 appropriations for HHS was signed by the President on December 8, 2004 (P.L. 108-447). The final funding levels for child welfare programs drew from those included in the House-passed Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for FY2005 (H.R. 5006, H.Rept. 108-636) and those approved on September 15, 2004 by the Senate Committee on Appropriations (S. 2810, S.Rept. 108-345). P.L. 108-447 also included a 0.80% across-the-board reduction in most discretionary funding accounts, including all the discretionary child welfare accounts.

The final funding levels were similar, in many cases, to those passed by the House and requested by the President. **Table 1** (below) lists final funding levels for selected child welfare programs in FY2002 - FY2004 and proposed and final funding levels for FY2005. It also indicates whether the program receives mandatory or discretionary funding.

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[34] (...continued)
Sacramento Bee has reported that a federal judge ruled that the state and its counties must pay more than $80 million in previously denied foster care benefits as a result of the *Rosales* ruling. The federal government would be responsible for matching these eligible claims. See "Foster Ruling to Cost State Millions," *Sacramento Bee*, Feb. 14, 2004.

Table 1. Proposed and Final Funding for Selected Child Welfare Programs, FY2002-FY2005

($ in millions)

Program *kind of funding*	Final Funding by Fiscal Year			Proposed and Final Funding FY2005 [c]			
	2002	2003[a]	2004[b]	President's request	House	Senate	**Final 2005**
Title IV-B of the Social Security Act							
Child Welfare Services *discretionary*	292	290	289	292	292	292	290
Child Welfare Training *discretionary*	7.5	7.4	7.4	7.5	7.5	7.5	7.4
Promoting Safe & Stable Families *mandatory + discretionary*[d]	375	404	404	505	410	404	404
Mentoring Children of Prisoners *discretionary*[e]	0	9.9	49.7	50	50	50	49.6
Title IV-E of the Social Security Act							
Foster Care *mandatory*[f]	4,519	4,485	4,974	4,896	4,896	4,896	4,896
Adoption Assistance *mandatory*[f]	1,342	1,463	1,700	1,770	1,770	1,770	1,770
Adoption Incentives *discretionary*	43	42.7	7.5[g]	32.1	32.1	32.1	31.8
Foster Care Independence *mandatory*	140	140	140	140	140	140	140
Foster Care Independence Education and Training Vouchers[e] *discretionary*	0	41.7	44.7	60	50	44.7	46.6
Child Abuse Prevention and Treatment Act							
Basic State Grants *discretionary*	22.0	21.9	21.9	42.0	28.5	27.5	27.3
Discretionary Grants (for research and demonstration) *discretionary*	26.2	33.8	34.4	26.3	26.3	34.4	31.7
Community-Based Grants for the Prevention of Child Abuse and Neglect[h] *discretionary*	33.4	33.2	33.2	65.0	43.2	43.2	42.9
Children's Justice Act Grants *off-budget*[i]	20.0	20.0	20.0	Not applicable			20.0
Other Programs *(all discretionary funding)*							
Abandoned Infants Assistance	12.2	12.1	12.1	12.1	12.1	12.1	12.0
Adoption Opportunities	27.4	27.2	27.1	27.3	27.3	27.3	27.1
Adoption Awareness[j]	12.9	12.8	12.8	12.9	12.9	12.9	12.8

Source: Table prepared by Congressional Research Service (CRS) .

a. The numbers in this column reflect the 0.65% funding reduction approved as a part of the final funding law (P.L. 108-7), which was applicable to all of the discretionary funds in this table.

b. The numbers in this column reflect the 0.59% funding reduction approved as part of the final funding (P.L. 108-199), which was applicable to all of the discretionary funds in this table.

c. The numbers in the "House" column reflect those that were passed as part of H.R. 5006 on September 9, 2004. The numbers in the "Senate Comm." column reflect funding levels included in S. 2810 as it was approved by the Senate Committee on Appropriations on September 15, 2004. The numbers in the "Final" column reflect funding included in P.L. 108-447. The law included an across-the-board 0.80% reduction in accounts, which was applicable to all of the discretionary funds in this table. The administration has not published the final funding levels for each of these accounts; thus numbers shown here are an *estimated* final funding level based on an a proportionate application of the funding reduction to each discretionary program.

d. Before FY2002, all funding for this program was mandatory. P.L. 107-133, which reauthorized the program through FY2006, set an annual mandatory funding level of $305 million for it and authorized additional discretionary funding up to $200 million in each fiscal year. Funding above the mandatory level was subject to the funding rescissions in both FY2003 and FY2004. See table notes a and b.

e. P.L. 107-133, which was signed into law in January 2002, first authorized this funding.

f. The Federal Foster Care and Adoption Assistance Programs are the only two child welfare programs funded with mandatory (or entitlement) dollars that are also on an "open-ended" basis. This means there is no annual cap on the amount of federal money that may be spent on these programs; states may claim reimbursement for a part of all eligible foster care and adoption assistance related costs. The final funding level shown for FY2002 and FY2003 are estimated federal expenditures based on state claims; the final funding level for FY2004 and FY2005 reflect estimates of what states are expected to claim for these programs in those years.

g. P.L. 108-199 includes language to ensure the availability of unused FY2003 adoption incentive funding (totaling approximately $27.5 million) for FY2004. Thus Congress expected the total available FY2004 adoption incentive funding to equal about $35 million.

h. P.L. 108-36 renamed these grants, which are authorized under Title II of CAPTA and were previously call Community-Based Family Resource and Support Grants.

i. These grants are not funded out of the general treasury. Instead, P.L. 98-473 (Victims of Crime Act of 1984), as amended, provides that up to $20 million annually is to be set-aside for these grants out of the Crime Victims Fund. That fund is composed of various criminal fines, penalties, assessments and forfeitures and is administered by the Department of Justice.

j. Appropriations shown in this row are for programs authorized under the Children's Health Act of 2000 (Sections 330F and 330G of Title III of the Public Health Service Act). Section 330F authorizes Adoption Awareness, which received $9.9 million in FY2002 and $9.8 million in each of FY2003 and FY2004. Section 330G authorizes a Special Needs Adoption Program aimed at improving awareness of adoption of special needs children. This program received $3 million in funding for each of FY2002 (first years' funds were authorized under this section), FY2003 and FY2004.

For More or Related Information

CRS Report RS20230, *Child Welfare: The Chafee Foster Care Independence Program*, by (name redacted).

CRS Report RL31242, *Child Welfare: Federal Program Requirements for States,* by (name redacted).

CRS Report RL32070, *Interstate Compact on the Placement of Children*, by (name redacted).

CRS Report RS21365, *The Missing, Exploited and Runaway Children Protection Act: Appropriations and Reauthorization*, by Edith Cooper.

CRS Report RL31655, *Missing and Exploited Children: Overview and Policy Concerns*, by Edith Cooper.

CRS Report RL31769, *Immigration: International Adoption*, by (name redacted).

Section 11, House Ways and Means Committee *Green Book*, 2004 edition [http://waysandmeans.house.gov/media/pdf/greenbook2003/Section11.pdf]