



# The National Commission on Children and Disasters: Overview and Issues

**-name redacted-**

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## Summary

The National Commission on Children and Disasters (the Commission) is authorized under the provisions of the Kids in Disasters Well-being, Safety, and Health Act of 2007 (P.L. 110-161) and given federal advisory committee statutory authority under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 (P.L. 110-329). The U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), provides financial and administrative support to the Commission, whose purpose is to assess the needs of children in the preparation for, response to, and recovery from natural disasters, acts of terrorism, and other man-made disasters.

Congress authorized appropriations of \$1.5 million for each of FY2008 and FY2009 for the Commission to conduct a comprehensive study to examine and assess the needs of children as they relate to preparation for, response to, and recovery from all hazards including natural disasters, acts of terrorism, and other man-made disasters. After evaluating existing research and recommendations, the Commission is directed to submit a report to the President and Congress on its findings, conclusions, and recommendations to address the identified gaps pertaining to the needs of children in disasters. The Interim Report of the Commission was provided to the President and Congress on October 14, 2009, and the Final Report is projected to be completed by October 2010.

The 111<sup>th</sup> Congress is currently considering amending the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to enhance disaster response, recovery, preparedness and mitigation capabilities (H.R. 3377). Congress is also considering legislation that would establish provisions for education, child care, emergency planning, and health care guidance to address the safety of children after a disaster (S. 2898). Issues Congress may wish to consider include expanding proposed legislation or introducing new legislation to amend the Stafford Act, or amending the Homeland Security Act, to include recommendations of the Commission. Additional issues Congress may wish to consider include what administrative options are available to implement the Commission recommendations and where there may be a need for congressional action.

## Contents

Introduction.....	1
National Commission on Children and Disasters .....	1
Why the Commission Was Established .....	2
Composition of the Commission .....	2
Duties of the Commission .....	4
Commission Subcommittees .....	4
Funding.....	5
Commission Activities.....	6
Preliminary Recommendations.....	7
Disaster Management and Recovery .....	7
Analysis of Recommendations.....	7
Mental Health.....	8
Analysis of Recommendations.....	8
Child Physical Health and Trauma.....	9
Analysis of Recommendations.....	9
Emergency Medical Services and Pediatric Transport.....	10
Analysis of Recommendation .....	10
Disaster Case Management .....	10
Analysis of Recommendation .....	10
Child Care .....	11
Analysis of Recommendations.....	11
Elementary and Secondary Education.....	11
Analysis of Recommendations.....	12
Child Welfare and Juvenile Justice.....	12
Analysis of Recommendations.....	13
Sheltering Standards, Services and Supplies.....	13
Analysis of Recommendation .....	13
Housing .....	14
Analysis of Recommendation .....	14
Evacuation.....	14
Analysis of Recommendation .....	14
Other Issues .....	15
The Role of Federal Agencies: The Dilemma of Definitions in Disaster Funding.....	15
Disaster Recovery .....	15
Disaster Case Management .....	15
Transitioning Disaster Assistance Coordination to the States .....	16
Federal Grants-in-Aid Eligibility.....	16
111 <sup>th</sup> Congress Legislation.....	17
Concluding Observations.....	17

## Tables

Table 1. Composition of the National Commission on Children and Disasters, 2008-2009 .....	3
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## **Contacts**

Author Contact Information..... 18

## **Introduction**

Children are one of the most vulnerable segments of society during disasters. There are over 38.5 million households with children under 18 years in the United States.<sup>1</sup> The majority of these households could be directly affected by disasters either through disruptions of day-to-day activities or through community disaster mitigation planning efforts. The perils faced by children can include separation from family members, school closures, health care shortages, housing issues, psychological impacts, and many others. The number of children affected by disasters is growing, yet there remains a gap in the inclusion of children in community disaster planning. Planning is just one of many tools that can be used to address the perils children face during and after disasters. Other activities include medical preparedness and response, medical countermeasures, medical transportation, disaster case management, national sheltering standards, housing, and evacuation. Congress established the National Commission on Children and Disasters (the Commission) to address the needs of children in disasters.<sup>2</sup> This report considers the purpose, history, and structure of the Commission; the recommendations contained in the Commission's interim report to Congress; and congressional issues related to the recommendations. In-depth analysis of the recommendations will be undertaken in later reports.

The 111<sup>th</sup> Congress is currently considering amending the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).<sup>3</sup> The Disaster Response, Recovery, and Mitigation Enhancement Act of 2009 (H.R. 3377) would enhance disaster response, recovery, preparedness, and mitigation capabilities. The Child Safety, Care, and Education Continuity Act of 2010 (S. 2898) provides for the safety, care, and educational needs of children in disasters. Congress may wish to consider expanding proposed legislation or introducing new legislation to amend the Stafford Act to include recommendations of the Commission.<sup>4</sup> Additional issues Congress may wish to consider include eligibility for federal grant funds, the federal role in emergency management, and federal agency role clarification in disaster assistance. In addition to amending the Stafford Act, Congress may elect to assess whether the Homeland Security Act (HSA) should be amended to emphasize the needs of children in emergencies.

## **National Commission on Children and Disasters**

In recognition of the risks and challenges facing children during and after disasters, the Commission was authorized under the provisions of the Kids in Disasters Well-being, Safety, and Health Act of 2007 (P.L. 110-161) and given federal advisory committee statutory authority under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 (P.L. 110-329) to assess the needs of, and make recommendations about, children in disasters. The Commission is bipartisan, with 10 members appointed by the President and congressional leaders from both parties. The U.S. Department of Health and Human Services (HHS), Administration

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<sup>1</sup> U.S. Census Bureau, American Community Survey, 2006-2008.

<sup>2</sup> P.L. 110-161, Title VI, §601-613, 121 Stat. 2213-2217.

<sup>3</sup> The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et, seq.

<sup>4</sup> Ibid.

for Children and Families (ACF), provides financial and administrative support to the Commission.<sup>5</sup>

Congress authorized appropriations of \$1.5 million for each of FY2008 and FY2009 to enable the Commission to conduct a comprehensive study to examine and assess the needs of children in the preparation for, response to, and recovery from natural disasters, acts of terrorism, and other man-made disasters.<sup>6</sup> After evaluating existing research and recommendations, the Commission is directed to submit a report to the President and Congress on its findings, conclusions, and recommendations to address the identified gaps pertaining to the needs of children in disasters.<sup>7</sup> The interim report of the Commission was provided to the President and Congress on October 14, 2009.<sup>8</sup> The Final Report is projected to be completed by October 2010.

## Why the Commission Was Established

According to the U.S. Census, children under the age of 18 comprise over 25% of the population. As a result, almost every disaster will most likely involve children. The vulnerability of children in disasters became most visible when families were separated after Hurricane Katrina, resulting in the displacement of an estimated 183,000 children, many of whom were poor.<sup>9</sup> While it is unclear exactly how many children are recovering from Hurricane Katrina, research suggests that over 20,000 children still lack adequate housing, education, and essential services.<sup>10</sup> The Commission was established to identify gaps in existing research and emergency management practices and make recommendations to address those gaps.<sup>11</sup>

## Composition of the Commission

Congress required that the Commission be appointed on a bipartisan basis, be representative of private nonprofit entities with expertise in providing assistance to children in disasters, and include the state and local emergency management perspective.<sup>12</sup> **Table 1** provides the affiliation and appointment information of the 10 commissioners.

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<sup>5</sup> P.L. 110-161, Title VI, §607(c)(1), 121 Stat. 2216.

<sup>6</sup> P.L. 110-161, Title VI, §612, 121 Stat. 2217.

<sup>7</sup> P.L. 110-161, Title VI, §611, 121 Stat. 2217.

<sup>8</sup> National Commission on Children and Disasters, *Interim Report*, October 2009, at <http://www.childrenanddisasters.acf.hhs.gov>.

<sup>9</sup> CRS Report RL33141, *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*, by (name redacted) et al., p. 18.

<sup>10</sup> Children's Health Fund, *Reforming Disaster Case Management: National Lessons From Louisiana*, December 2009, p. 6, at [http://www.childrenshealthfund.org/sites/default/files/Disaster%20Case%20Management%20Roundtable%20Report%20and%20Recommendations\\_Finaldraft.pdf](http://www.childrenshealthfund.org/sites/default/files/Disaster%20Case%20Management%20Roundtable%20Report%20and%20Recommendations_Finaldraft.pdf).

<sup>11</sup> P.L. 110-161, Title VI, §603, 121 Stat. 2213.

<sup>12</sup> P.L. 110-161, Title VI, §605, 121 Stat. 2214.

**Table I. Composition of the National Commission on Children and Disasters, 2008-2009**

<b>COMMISSIONER</b>	<b>AFFILIATION</b>	<b>APPOINTED BY</b>
Ernie Allen	Co-Founder, President, and CEO, National Center for Missing and Exploited Children	Senator Mitch McConnell, Senate Republican leader
Dr. Michael Anderson, Commission Vice-Chairperson	Interim Senior Vice President and Chief Medical Officer, University Hospitals	President George W. Bush
Merry Carlson	Preparedness Chief, Division of Homeland Security and Emergency Management, State of Alaska	Senator Mitch McConnell, Senate Republican leader
Hon. Sheila Leslie	Member of the Nevada General Assembly and the Specialty Courts Coordinator, 2 <sup>nd</sup> Judicial District Court	Senator Harry Reid, Senate Democratic leader
Bruce Lockwood	Public Health Emergency Response Coordinator, Bristol-Burlington Connecticut, Health District	Speaker Nancy Pelosi, House Democratic leader
Graydon “Gregg” Lord	Associate Director, National EMS Preparedness Initiative and Senior Policy Analyst at the George Washington University Medical Center	President George W. Bush
Dr. Irwin Redlener	President and Co-founder, The Children’s Health Fund and Director of the National Center for Disaster Preparedness and Professor of Clinical Population and Family Health, Columbia University	Speaker Nancy Pelosi, House Democratic leader
Dr. David Schonfeld	Director, Division of Developmental and Behavioral Pediatrics and Director of the National Center for School Crisis and Bereavement at the Cincinnati Children’s Hospital Medical Center	Representative John Boehner, House Republican leader
Mark K. Shriver, Commission Chairperson	Vice-President and Managing Director for U.S. Programs at Save the Children	Senator Harry Reid, Senate Democratic leader
Lawrence “Larry” Tan	Chief of Emergency Medical Services, New Castle County, Delaware, Department of Public Safety	Representative John Boehner, House Republican leader

**Source:** National Commission on Children and Disasters, online at <http://www.childrenanddisasters.acf.hhs.gov/about.html>, visited December 7, 2009.

## **Duties of the Commission**

Congress directed the Commission to conduct a comprehensive study that examines the needs of children in the preparedness for, response to, recovery from, and mitigation of the impacts of major disasters and emergencies.<sup>13</sup> The terms “major disasters” and “emergencies” were defined to mean the same as such terms under the Stafford Act.<sup>14</sup> Specifically, the authorizing statute directs the Commission to make recommendations in the following areas:

- child physical health, mental health, and trauma;
- child care in all settings;
- child welfare;
- elementary and secondary education;
- sheltering, temporary housing, and affordable housing;
- transportation;
- juvenile justice;
- evacuation; and
- relevant activities in emergency management.<sup>15</sup>

## **Commission Subcommittees**

The Commission established the following four subcommittees that meet monthly:

1. Education, Child Welfare, and Juvenile Justice;
2. Evacuation, Transportation, and Housing;
3. Human Services Recovery; and
4. Pediatric Medical Care.

Each subcommittee operates under a statement of purpose that sets forth the goals and objectives of the subcommittee. These statements are excerpted below.

The Education and Juvenile Justice Subcommittee will review issues affecting children and disasters in the areas of emergency preparedness, response, and recovery in schools, child care facilities, institutions of juvenile justice and corrections, and child welfare institutions. Areas of focus will include coordination with state and local planning efforts, identification of key services, training of personnel, and communication among all stakeholders, including parents and caregivers.<sup>16</sup>

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<sup>13</sup> P.L. 110-161, Title VI, §604, 121 Stat. 2213.

<sup>14</sup> 42 U.S.C. §5122(1) and §5122(2). S. 2898 also defines “major disasters” to mean the same as such term under the Stafford Act.

<sup>15</sup> P.L. 110-161, Title VI, §606, 121 Stat. 2215.

<sup>16</sup> National Commission on Children and Disasters, *Education and Juvenile Justice Subcommittee: Statement of Purpose and Roster*, June 15, 2009, at <http://www.childrenanddisasters.acf.hhs.gov/subcommittee.html>.

The Subcommittee on Evacuation, Transportation and Housing will be recommending minimum standards for the care of children during evacuation, transportation and housing at any phase of a disaster situation. The Subcommittee will seek ways to encourage greater responsibility and accountability for the development and maintenance of standards that ensure the safety and accessibility for children, regardless of whether the services are provided by government or non-governmental organizations. To achieve this goal, the Subcommittee will investigate approaches, both internationally and domestically, to identify best practices and address existing gaps. The Subcommittee will facilitate collaboration of subject matter experts and stakeholders to address the identified issues by thoughtfully integrating the needs of children in these environments.<sup>17</sup>

The Human Services Recovery Subcommittee will focus on how to optimize recovery efforts in the aftermath of disasters and emergencies from the perspective of meeting the long-term essential needs of children and safe-guarding their well-being. Disasters and emergencies, especially those of a large-scale or catastrophic nature, can disrupt communities and community services for extended periods, during which timely access to appropriate child care, schools, supervised after-school programs, and health care (including physical health, mental and behavioral health, and oral health services) is at risk. This situation is frequently complicated by persistently unstable housing and lack of holistic disaster case management services. During disaster recovery, children must be provided these services within a supportive environment that ensures optimal recovery for individual children, their guardians, and the community as a whole. The Subcommittee will work to encourage policies and strategies that minimize the traumas and disruptions associated with long-term recovery.<sup>18</sup>

The Subcommittee on Pediatric Medical Care will explore ways to improve the current system for providing acute medical care to children in disasters, including improvements to the current processes for developing, stockpiling, and distributing medical countermeasures for children in a disaster and ensuring an effective emergency medical response system for children with sufficient pediatric-specific surge capacity.<sup>19</sup>

## **Funding**

Congress authorized appropriations of \$1.5 million for each of FY2008 and FY2009 for activities of the Commission.<sup>20</sup> Even though Congress authorized \$1.5 million, HHS provided \$500,000 from discretionary appropriations for Commission activities for FY2008.<sup>21</sup> In FY2009, HHS received \$1.5 million to fund the Commission.<sup>22</sup> H.R. 3293, pending before the 111<sup>th</sup> Congress, would provide \$1 million to the Commission for FY2010.<sup>23</sup> No proposals have been submitted by

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<sup>17</sup> National Commission on Children and Disasters, *Evacuation, Transportation, and Housing Subcommittee: Statement of Purpose and Roster*, June 15, 2009, at <http://www.childrenanddisasters.acf.hhs.gov/subcommittee.html>.

<sup>18</sup> National Commission on Children and Disasters, *Human Services Recovery Subcommittee: Statement of Purpose and Roster*, June 15, 2009, at <http://www.childrenanddisasters.acf.hhs.gov/subcommittee.html>.

<sup>19</sup> National Commission on Children and Disasters, *Pediatric Medical Care Subcommittee: Statement of Purpose and Roster*, June 15, 2009, at <http://www.childrenanddisasters.acf.hhs.gov/subcommittee.html>.

<sup>20</sup> P.L. 110-161, Title VI, §612, 121 Stat. 2217.

<sup>21</sup> Although Congress authorized \$1.5 million for the Commission for FY2008, the first meeting of the Commission was held on October 14, 2008. HHS chose to prorate the funding to the Commission based upon the October onset of Commission activities.

<sup>22</sup> FY2009 Omnibus Appropriations, P.L. 111-8.

<sup>23</sup> H.R. 3293.

the Administration for FY2011 funding. Congress has directed the Commission to provide a final report in October 2010 but has not provided authorization for appropriations during the fiscal year in which the final report is due.<sup>24</sup> Therefore, Congress may wish to consider the funding needs of the Commission during the period immediately following submission of the final report.

## **Commission Activities**

The Commission has held several meetings since the first meeting on October 14, 2008. In addition to public meetings, members of the Commission have testified at the following congressional hearings:

- Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Disaster Recovery, *Focus on Children in Disasters: Evacuation Planning and Mental Health Recovery*, August 4, 2009;<sup>25</sup>
- House Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management, *Looking Out for the Very Young, the Elderly and Others with Special Needs: Lessons from Katrina and Other Major Disasters*, October 20, 2009;<sup>26</sup>
- Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Disaster Recovery, *Disaster Case Management: Developing a Comprehensive National Program Focused on Outcomes*, December 2, 2009;<sup>27</sup> and
- Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Disaster Recovery, *Children and Disasters: A Progress Report on Addressing Needs*, December 10, 2009.<sup>28</sup>

The Commission submitted an interim report to the President and Congress in October 2009.<sup>29</sup>

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<sup>24</sup> P.L. 110-161, Title VI, §612, 121 Stat. 2217

<sup>25</sup> Testimony of Dr. Irwin Redlener, President of the Children's Health Fund and member of the National Commission on Children and Disasters, in the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad hoc Subcommittee on Disaster Recovery, *Focus on Children in Disasters: Evacuation Planning and Mental Health Recovery*, 111<sup>th</sup> Congress, 1<sup>st</sup> sess., August 4, 2009 (Washington: GPO, 2009).

<sup>26</sup> Testimony of Mark K. Shriver, Chairperson of the National Commission on Children and Disasters, in the U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management, *Looking Out for the Very Young, the Elderly and Others with Special Needs: Lessons from Katrina and Other Major Disasters*, 111<sup>th</sup> Congress, 1<sup>st</sup> sess., October 20, 2009 (Washington: GPO, 2009).

<sup>27</sup> Testimony of Dr. Irwin Redlener, President of the Children's Health Fund and member of the National Commission on Children and Disasters, in the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad hoc Subcommittee on Disaster Recovery, *Disaster Case Management: Developing a Comprehensive National Program Focused on Outcomes*, 111<sup>th</sup> Congress, 1<sup>st</sup> sess., December 2, 2009 (Washington: GPO, 2009).

<sup>28</sup> Testimony of Mark K. Shriver, Chairperson of the National Commission on Children and Disasters, in the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad hoc Subcommittee on Disaster Recovery, *Children and Disasters: A Progress Report on Addressing Needs*, 111<sup>th</sup> Congress, 1<sup>st</sup> sess., December 10, 2009 (Washington: GPO, 2009).

<sup>29</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

## **Preliminary Recommendations**

The Commission has developed 11 categories of recommendations in its Interim Report:<sup>30</sup> (1) disaster management and recovery; (2) mental health; (3) child physical health and trauma; (4) emergency medical services and pediatric transport; (5) disaster case management; (6) child care; (7) elementary and secondary education; (8) child welfare and juvenile justice; (9) sheltering standards, services and supplies; (10) housing; and (11) evacuation. The following section summarizes the recommendations and provides context for their consideration.

## **Disaster Management and Recovery**

The interim recommendations of the Commission for disaster management and recovery focus on the content and structure of disaster planning documents utilized at the federal, state, and local level. Specifically, the Commission recommends that stakeholders

- “distinguish and comprehensively integrate the needs of children across all inter- and intra-governmental disaster planning activities and operations”;<sup>31</sup> and
- “accelerate the development of a National Disaster Recovery Strategy with an explicit emphasis on immediate and long-term physical and mental health, educational, housing, and human services recovery needs of children.”<sup>32</sup>

## ***Analysis of Recommendations***

The Commission appears to emphasize the need to distinguish planning that addresses the needs of children from the larger “special need,” “at risk,” or “vulnerable” population categories frequently seen in federal, state, and local disaster planning documents.<sup>33</sup> The Stafford Act provides the authority for the prioritization of individuals with “serious needs.”<sup>34</sup> The Post-Katrina Emergency Management Reform Act of 2006 amended the Stafford Act to specifically address the needs of the disabled population in disasters.<sup>35</sup> Congress may wish to consider further amending Section 408 to specifically address the needs of children in disasters.

Additionally, the Commission has concerns that planners will simply create an appendix in existing documents for the needs of children rather than incorporating those needs into the overall planning approach. Under existing statutory authority, Congress has directed FEMA to ensure increased efficiency through coordination of mitigation, planning, response, and recovery efforts.<sup>36</sup> FEMA was also directed to lead and support evacuation and related emergency operations.<sup>37</sup> In acknowledgement of the pending revision to the National Response Framework (NRF) in 2010, the Commission recommends that the Department of Homeland Security (DHS)

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid, p. 17.

<sup>32</sup> Ibid, p. 21.

<sup>33</sup> For example, see City of San Jose, CA, *San Jose Disaster Shelter Annex for Vulnerable Populations*, May 2009, p. 9, at <http://www.sanjoseca.gov/emergencyServices/pdf/SJ%20Shelter%20Annex%20Vulnerable%20Populations.pdf>.

<sup>34</sup> 42 U.S.C. §5174(a)(1).

<sup>35</sup> P.L. 109-295, §689.

<sup>36</sup> P.L. 107-296, §507(a)(2)(E).

<sup>37</sup> Ibid, §507(a)(2)(C).

elevate the needs of children through revision of the National Response Framework Emergency Support Functions to distinctly address children in disasters.<sup>38</sup>

## **Mental Health**

The Commission recommends providing for the mental and behavioral health needs of children affected by disasters through

- integrating “mental and behavioral health for children into all public health and medical preparedness and response activities”;<sup>39</sup>
- enhancing the “research agenda for children’s disaster mental and behavioral health, including psychological first aid, cognitive-behavioral interventions, social support interventions, and bereavement counseling and support”;<sup>40</sup> and
- enhancing “pediatric disaster mental and behavioral health training for professionals and paraprofessionals, including psychological first aid, cognitive-behavioral interventions, social support interventions, and bereavement counseling and support.”<sup>41</sup>

## ***Analysis of Recommendations***

The Commission suggests that the above recommendations can be achieved by establishing mental and behavioral health as a core component of federal, state, and local unified incident command structures such as the National Incident Management System (NIMS).<sup>42</sup>

FEMA administers a Crisis Counseling Assistance and Training program that provides supplemental funding to state mental health authorities for crisis counseling for up to nine months following a disaster declaration.<sup>43</sup> The nine-month time limit provision is set forth in regulations but is not in statute.<sup>44</sup> Congress may wish to consider whether the regulatory provisions are appropriate. However, the Commission seems to suggest that there need to be provisions for mental and behavioral health services beyond nine months.

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<sup>38</sup> Emergency Support Functions (ESFs) provide a structure for coordinating federal interagency support during the disaster response phase by grouping functions based on the most frequently used resources. For additional information on the National Response Framework, see CRS Report RL34758, *The National Response Framework: Overview and Possible Issues for Congress*, by (name redacted).

<sup>39</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 24, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>40</sup> *Ibid*, p. 25.

<sup>41</sup> *Ibid*, p. 26.

<sup>42</sup> The National Incident Management System (NIMS) is a unified incident command structure that enhances organizational and technological interoperability and enables a wide variety of stakeholder participation in emergency management and incident response activities. U.S. Department of Homeland Security, *National Incident Management System Fact Sheet*, at <http://www.fema.gov/pdf/emergency/nims/NIMSFactSheet.pdf>.

<sup>43</sup> 42 U.S.C. §5183. For background information on the Crisis Counseling Assistance and Training program, see CRS Report RL33738, *Gulf Coast Hurricanes: Addressing Survivors’ Mental Health and Substance Abuse Treatment Needs*, by (name redacted), (name redacted), and (name redacted).

<sup>44</sup> 44 CFR, §206.171(f)(4).

## **Child Physical Health and Trauma**

The Commission recommends addressing the issues of child physical health and trauma in disasters by

- ensuring the “availability and access to pediatric medical countermeasures at the federal, state, and local level for chemical, biological, radiological, nuclear, and explosive (CBRNE) threats”;<sup>45</sup>
- expanding the “medical capabilities of all federally funded response teams through the comprehensive integration of pediatric-specific training, guidance, exercises, supplies, and personnel”;<sup>46</sup>
- ensuring “that all health care professionals who may treat children during an emergency have adequate pediatric disaster clinical training specific to their role”;<sup>47</sup>
- providing “funding for a formal regionalized pediatric system of care for disasters”;<sup>48</sup> and
- ensuring “access to physical and mental health services for all children during recovery from disaster.”<sup>49</sup>

### *Analysis of Recommendations*

The Commission recommends reviewing existing federal programs, such as the disaster assistance programs provided under the provisions of the Stafford Act, to assess the feasibility of expanding eligibility to include clinics that provide physical and mental health services. The Stafford Act provides statutory authority for the repair, restoration, and replacement of damaged facilities under a program commonly referred to as public assistance.<sup>50</sup> Currently, eligibility is limited to state and local governments and private nonprofit facilities. Issues related to eligibility for federal funds are discussed in greater detail in subsequent sections of this report. Congress may wish to consider whether the current eligibility will suffice or whether to expand eligibility for the public assistance program to allow for the repair, restoration, or replacement of certain for-profit facilities identified by the Commission as stakeholders in providing essential services to children in disasters.

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<sup>45</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 29, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>. For example, the National Disaster Medical System (NDMS) is a federally coordinated system that augments the nation’s medical response capacity. For additional information on the NDMS, see <http://www.sanjoseca.gov/emergencyServices/pdf/SJ%20Shelter%20Annex%20Vulnerable%20Populations.pdf>.

<sup>46</sup> *Ibid.*, p. 33.

<sup>47</sup> *Ibid.*, p. 35.

<sup>48</sup> *Ibid.*, p. 37.

<sup>49</sup> *Ibid.*, p. 39.

<sup>50</sup> 42 U.S.C. 5172.

## **Emergency Medical Services and Pediatric Transport**

The one recommendation of the Commission for emergency medical services and pediatric transport involves “improving the capacity of emergency medical services (EMS) to transport pediatric patients and provide comprehensive pre-hospital pediatric care during daily operations and disasters.”<sup>51</sup>

### *Analysis of Recommendation*

The Commission recommends establishing a dedicated grant program for EMS, similar to the Metropolitan Medical Response System program within the DHS Homeland Security Grant Program, and providing additional funding for the Emergency Medical Services for Children program to increase day-to-day pediatric emergency preparedness.<sup>52</sup> The Stafford Act contains provisions that enable the President to provide accelerated federal assistance to save lives and prevent human suffering.<sup>53</sup> Congress may wish to consider whether this authority would extend to the emergency medical services and pediatric transport during disasters.

## **Disaster Case Management**

The one recommendation of the Commission for disaster case management involves establishing a “holistic federal disaster case management program with an emphasis on achieving tangible positive outcomes for all children and families within a presidentially-declared disaster area.”<sup>54</sup>

### *Analysis of Recommendation*

After Hurricane Katrina, Congress recognized that the existence of multiple case management programs after a disaster causes confusion for providers and clients.<sup>55</sup> Currently, under the provisions of the Stafford Act, FEMA is the lead agency in coordinating disaster case management, predominately through mission assignments.<sup>56</sup> After Hurricane Katrina, HHS developed a holistic disaster case management model.<sup>57</sup> In December 2009, FEMA and HHS

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<sup>51</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 41, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>52</sup> For information on the Emergency Medical Services for Children grant program, see <http://www07.grants.gov/search/search.do;jsessionid=vqyXLswZ7wYITJqDrp3WTZGYhHKKv7wQXb7t5WQ361rPQLxj89T1!-1179711943?oppId=42959&mode=VIEW>.

<sup>53</sup> 42 U.S.C. 5170a.

<sup>54</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 46, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>55</sup> Opening Statement of Chairman Mary L. Landrieu, in U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad hoc Subcommittee on Disaster Recovery, *Disaster Case Management: Developing a Comprehensive National Program Focused on Outcomes*, 110 Congress, 1<sup>st</sup> sess., December 2, 2009 (Washington: GPO, 2009).

<sup>56</sup> 42 U.S.C. 5189d.

<sup>57</sup> This information was provided by (name redacted), Analyst in Social Policy, Congressional Research Service. Resources related to HHS case management can be found at <http://www.acf.hhs.gov/ohsepr/index.html>.

entered into an interagency agreement to implement a coordinated disaster case management program.<sup>58</sup>

## **Child Care**

The Commission recommends addressing child care needs in disasters through

- requiring “disaster planning capabilities for child care providers”;<sup>59</sup> and
- improving “capability to provide child care services in the immediate aftermath of and recovery from a disaster.”<sup>60</sup>

### ***Analysis of Recommendations***

Currently, the Child Care Bureau at HHS encourages (but does not require) states to develop emergency preparedness and response plans to address planning, recovery, and response efforts specific to child care and other early childhood programs.<sup>61</sup> The Child Care Bureau notes that, “child care is an essential human service and critical component in the immediate aftermath of a disaster necessary to protect the safety of children and support the stabilization of families.”<sup>62</sup> In child care plans for the years 2008-2009, 31 state and territory child care agencies reported that they were developing (or had already developed) emergency preparedness plans and/or policies and procedures. The Child Care Bureau has also issued an information memorandum on flexibility in spending federal child care funds in response to federal or state declared emergencies.<sup>63</sup> This memorandum reviews a handful of ways that states may utilize the flexibility of federal child care funds to support families affected by disasters, including ways to support displaced families and waive certain eligibility requirements.

## **Elementary and Secondary Education**

The Commission recognizes the critical role of elementary and secondary institutions in disasters. Consequently, the Commission recommends

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<sup>58</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, “FEMA and Department of Health and Human Services’ Administration On Children and Families Improve Disaster Case Management Through Interagency Agreement,” Press Release, December 2, 2009, at <http://www.fema.gov/news/newsrelease.fema?id=50037>. The interagency agreement establishes two phases in disaster case management. During the first phase, the HHS’ Administration on Children and Families would deploy case managers to the disaster area. The second phase involves transitioning the case management services to a state-managed program funded through a direct grant from FEMA.

<sup>59</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 50, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>60</sup> *Ibid.*, p. 53.

<sup>61</sup> The information in this paragraph was provided by (name redacted), Analyst in Social Policy, Congressional Research Service.

<sup>62</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Child Care Bureau, *2010-2011 Child Care and Development Fund Plan Guidance*, available at [http://www.acf.hhs.gov/programs/ccb/law/guidance/current/ACF118/guidance\\_2010\\_final.htm](http://www.acf.hhs.gov/programs/ccb/law/guidance/current/ACF118/guidance_2010_final.htm).

<sup>63</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Child Care Bureau, *Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations*, Information Memorandum ACYF-IM-CC-05-03, September 6, 2005, at <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/im0503/im0503.htm>.

- establishing “a school disaster preparedness program and appropriate funds to the U.S. Department of Education (DOE) for a dedicated and sustained funding stream to all state education agencies” for state- and district-level disaster response planning, training, exercises, and evaluation,<sup>64</sup> and
- enhancing the “ability of school personnel to support children who are traumatized, grieving or otherwise recovering from a disaster.”<sup>65</sup>

### ***Analysis of Recommendations***

Currently, there are no federal laws that require local educational agencies (LEAs) to have emergency management plans.<sup>66</sup> However, some federal support is available to assist LEAs in developing these plans. For example, both the U.S. Department of Education (ED) and DHS administer programs that could provide funding to LEAs for emergency management planning purposes. The Readiness and Emergency Management for Schools (REMS) program administered by ED has provided funds to LEAs to develop and improve emergency management plans for LEAs and school buildings.<sup>67</sup> DHS administers the State Homeland Security program, the Urban Area Security Initiative, and the Citizens Corps program, which provides funds to state and local governments for emergency management planning.<sup>68</sup>

### **Child Welfare and Juvenile Justice**

To address the child welfare and juvenile justice issues in disasters, the Commission recommends

- providing “guidance, technical assistance, and model plans to assist state and local child welfare agencies in meeting current applicable disaster planning requirements and further requiring collaboration with state and local emergency management, courts, and other key stakeholders”;<sup>69</sup> and
- conducting a “national assessment of disaster planning and preparedness among state and local juvenile justice systems to inform the development of comprehensive disaster plans.”<sup>70</sup>

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<sup>64</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 57, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>65</sup> *Ibid.*, p. 59.

<sup>66</sup> The information in this paragraph was provided by (name redacted), Specialist in Education Policy, Congressional Research Service. U.S. Government Accountability Office, *Emergency Management: Most School Districts Have Developed Emergency Management Plans, but Would Benefit from Additional Federal Guidance*, GAO-07-609, June 2007, at <http://www.gao.gov/new.items/d07609.pdf>.

<sup>67</sup> For more information about the REMS program, see <http://www.ed.gov/programs/dvpemergencyresponse/index.html>.

<sup>68</sup> For more information about these programs, see <http://www.dhs.gov/xgovt/grants/>.

<sup>69</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 62, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>70</sup> *Ibid.*, p. 65.

### ***Analysis of Recommendations***

States must have in place certain procedures to address the safety and well-being of children during disasters.<sup>71</sup> Following the Gulf Coast hurricanes of 2005, Congress passed P.L. 109-288 to amend Title IV-B of the Social Security Act (SSA), requiring that states develop procedures to respond to and maintain child welfare services in the wake of a disaster.<sup>72</sup> The act specified that HHS establish criteria for how state child welfare systems would respond.

### **Sheltering Standards, Services and Supplies**

The one recommendation of the Commission for sheltering standards, services and supplies involves providing a “safe and secure mass care shelter environment for children, including appropriate access to essential services and supplies.”<sup>73</sup> Included in this recommendation is the need to develop and implement national standards for mass care shelters, methods for ensuring that age-appropriate essential supplies are available, training for shelter workers, and measures to screen shelter workers and volunteers working with children.

### ***Analysis of Recommendation***

Section 403 of the Stafford Act provides the President with the authority to dedicate federal resources to address sheltering needs.<sup>74</sup> The NRF provides guidance for the federal role in the provision of shelters in disasters.<sup>75</sup> Under the Stafford Act, the distribution of food and essential needs that may be provided in the shelters is administered by the American Red Cross, the Salvation Army, the Mennonite Disaster Service, and other disaster assistance organizations.<sup>76</sup> One of the challenges in implementing national standards for shelters is that many of the sheltering needs during disasters are provided by local community organizations that may not have the resources that the larger disaster assistance organizations may have in order to meet the standards. Additionally, if the local community organization shelter does not receive federal assistance, there is no mechanism to enforce the standards. In large-scale disasters, local community organizations such as churches that do not traditionally become involved in sheltering may step forward. While the standards may provide guidance to organizations that provide disaster assistance on a consistent basis, there may be a lack of awareness among the non-traditional shelter providers. Given the wide range of stakeholders that may potentially provide sheltering services, the greatest challenge in establishing standards directed towards sheltering requirements is the ability to encourage compliance of shelters that may not receive federal funding.

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<sup>71</sup> The information in this paragraph was provided by Adrienne L. Fernandes, Specialist in Social Policy, Congressional Research Service.

<sup>72</sup> P.L. 109-288, §6, 120 Stat. 1245.

<sup>73</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 68, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>74</sup> 42 U.S.C. §5170b(a)(3)(J).

<sup>75</sup> U.S. Department of Homeland Security, *Overview: ESF and Support Annexes Coordinating Federal Assistance in Support of the National Response Framework*, January 2008, p. 23. For additional information on sheltering provisions in the Stafford Act, see CRS Report CRS Report R40810, *FEMA Disaster Housing: From Sheltering to Permanent Housing*, by (name redacted).

<sup>76</sup> 42 U.S.C. §5170b(a)(2).

## **Housing**

The one recommendation of the Commission for housing involves “prioritizing families with children for disaster housing assistance and expedited transition into permanent housing, especially families with children who have disabilities or other special health, mental, or educational needs.”<sup>77</sup>

### *Analysis of Recommendation*

The disaster housing issue encompasses several concerns, including the condition of temporary housing, the lack of affordable housing in disaster-affected areas, and physical and mental burdens placed on children due to frequent housing transitions.<sup>78</sup>

## **Evacuation**

The one recommendation of the Commission for evacuation involves family reunification as a critical element of disaster-related evacuations. Months after Hurricane Katrina struck, over 5,000 children were reported as missing to the National Center for Missing and Exploited Children.<sup>79</sup> In recognition of the challenges of family reunification, the Commission recommends developing a “standardized, interoperable, national evacuee tracking and family reunification system that ensures the safety and well-being of children.”<sup>80</sup>

### *Analysis of Recommendation*

The Post-Katrina Emergency Management Reform Act (PKEMRA) required FEMA to establish the National Emergency Family Registry and Locator (NEFRL) system and the National Emergency Child Locator Center to address family reunification needs in disasters.<sup>81</sup> PKEMRA also required FEMA to establish a disability coordinator to ensure that the needs of individuals with disabilities in disasters are addressed. Currently, there is no similar statutory provision for a coordinator for children in disasters. Congress may wish to consider establishing a coordinator within FEMA that would ensure that the needs of children are addressed in the development and implementation of a national, standardized, and interoperable evacuee tracking and family reunification system.

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<sup>77</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 71, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>78</sup> For additional information on disaster housing, see CRS Report R40810, *FEMA Disaster Housing: From Sheltering to Permanent Housing*, by (name redacted).

<sup>79</sup> National Center for Missing and Exploited Children, “National Center for Missing and Exploited Children reunites last missing child separated by Hurricane Katrina and Rita,” press release, March 17, 2006, at [http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en\\_US&PageId=2317](http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=2317).

<sup>80</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 76, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>. The quote in the *Interim Report* is from 120 Stat. 1451, P.L. 109-295, Sec. 689c.

<sup>81</sup> P.L. 109-295, 120 Stat. 1393-1394.

## **Other Issues**

In addition to the issues above pertaining to the recommendations of the Commission, Congress may wish to consider policy options not addressed by the Commission. These include the role of federal agencies, transitioning disaster assistance coordination to the states, and federal grants-in-aid.

### **The Role of Federal Agencies: The Dilemma of Definitions in Disaster Funding**

There are many challenges involved in combining federal funding sources to address disaster related needs. Among these challenges is the determination of the role of each federal agency involved in a single disaster recovery project.

#### **Disaster Recovery**

FEMA and HUD each hold a distinct role in community recovery. Each federal agency arguably implements policy under different recovery objectives. For example, HUD programs have traditionally been viewed as a tool to promote economic development. Economic development initiatives generally encompass recovery projects that promote redeveloping and rejuvenating the economic base of communities. By comparison, FEMA programs generally fall under the auspices of short-term recovery needs and hazard mitigation and do not necessarily seek to make communities whole or provide for long-term quality of life factors. The focus of most FEMA assistance is to provide for the immediate shelter needs of individuals and restore critical infrastructure such as power, water and sewage systems, and postal services. FEMA grant programs have traditionally been considered reimbursement programs in which individuals and communities are partially reimbursed for losses and damage to properties. The Commission may need to address some of the challenges associated with implementing the interim recommendations that require alignment of two or more different recovery philosophies and differing program goals in a disaster coordination framework.

#### **Disaster Case Management**

Because the definition of disaster case management is unclear, the role of FEMA, HUD, and HHS in the provision of disaster case management services remains unclear.<sup>82</sup> While existing statutory authority suggests that FEMA serves as the lead federal agency, each agency implements policies and programs under different disaster case management objectives. While clarity of definitions may be useful in determining the jurisdictions of various agencies in providing disaster case management, definitions may also hinder the ability of agencies to be flexible in providing assistance for disasters of varying scale. Rather than defining disaster recovery and disaster case

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<sup>82</sup> As discussed in a previous section of this report, FEMA and HHS recently entered into an interagency agreement for disaster case management. However, disaster case management also includes housing issues, and the current interagency agreement does not include HUD. See U.S. Department of Homeland Security, Federal Emergency Management Agency, "FEMA and Department of Health and Human Services' Administration On Children and Families Improve Disaster Case Management Through Interagency Agreement," Press Release, December 2, 2009, at <http://www.fema.gov/news/newsrelease.fema?id=50037>.

management, Congress may wish to consider clarifying the scope of the federal role in providing disaster case management in order to provide a basis for aligning the program objectives of relevant federal agencies and the point of transition for disaster case management to state and local coordination.

## **Transitioning Disaster Assistance Coordination to the States**

One of the greatest challenges of disaster assistance is determining when a state devastated by a disaster is able to resume the lead role of coordinating disaster assistance. Under the provisions of the Stafford Act, states request federal assistance only after they have determined that they have exceeded their capacity to respond to and recover from a disaster. While the federal government steps in to provide financial and administrative assistance, the role of the state continues to be prominent in the decision-making regarding disaster assistance. Questions remain concerning when the federal government should transition coordination of long-term recovery back to state and local governments. While the Disaster Recovery Working Group established by President Barrack Obama may provide some insight into transitioning disaster assistance coordination to the states, Congress may wish to use the work of the Commission to identify points of transition for programs that provide federal disaster assistance to children.<sup>83</sup>

## **Federal Grants-in-Aid Eligibility**

The Commission has recommended that DHS prioritize grant funding for preparedness, planning, training, and exercise projects that include children.<sup>84</sup> However, a number of entities directly serving children, such as private schools and daycare centers classified as small businesses, would not be eligible for assistance under most federal grant programs. The Stafford Act establishes the authority for determining eligibility. While DHS can prioritize funding for projects that include children, that funding is limited to eligible applicants. Generally, eligibility for federal disaster assistance is limited to state government agencies, local governments, federally recognized Indian Tribal governments and Alaska Native villages and organizations, and certain private nonprofit organizations. Additionally, many of the emergency medical services utilized during disasters are provided by private businesses that also would not be eligible for many of the federal grant programs that fund disaster planning, training, and exercises.<sup>85</sup> Expanding federal grant eligibility may be justified because many of the services provided by private entities such as child care facilities and physical and mental health clinics provide a service that fills a gap left by limited local, state, and federal resources. The statutory provisions of the FEMA Public Assistance program state that part of the criteria for a private nonprofit facility to qualify for assistance is the determination that it provides “essential governmental type services to the general public.”<sup>86</sup> Arguably, for-profit organizations that may be providing an “essential governmental type service” during disasters should also be eligible for federal grant assistance. However, expanding grant eligibility would result in a significant increase in federal expenditures

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<sup>83</sup> For information on the Disaster Recovery Working Group, see <http://disasterrecoveryworkinggroup.gov/index.html>.

<sup>84</sup> National Commission on Children in Disasters, *Interim Report*, October 14, 2009, p. 4, at <http://www.childrenanddisasters.acf.hhs.gov/home.html>.

<sup>85</sup> CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by (name redacted), pp. 11-14.

<sup>86</sup> 44 CFR §206.221(e).

for disaster assistance. Congress may wish to consider whether to change eligibility to implement the recommendations of the Commission.

## 111<sup>th</sup> Congress Legislation

Legislation introduced in the 111<sup>th</sup> Congress includes provisions for child safety and education continuity in disasters (S. 2898), and changes to federal programs addressing community preparedness and mitigation (H.R. 3377). The Child Safety, Care, and Education Continuity Act of 2010 (S. 2898) includes provisions that address many of the child care and education recommendations of the Commission. However, Congress may wish to consider expanding the provisions of S. 2898 to address additional recommendations pertaining to mental health, emergency medical services and pediatric transport, disaster case management, sheltering standards, and housing.

Section 102 of the Disaster Response, Recovery, and Mitigation Enhancement Act of 2009 (H.R. 3377) provides for the implementation of the recommendations of a congressional committee.<sup>87</sup> Congress may wish to consider whether the evacuation recommendations of the Commission could be incorporated into implementation of other committee recommendations. Section 201 of H.R. 3377 provides federal assistance to states wishing to enhance mitigation activities.<sup>88</sup> Congress may wish to consider incorporating sheltering recommendations of the Commission into the mitigation provisions of the bill.

## Concluding Observations

Children are one of the most vulnerable segments of society during disasters. Traditionally, they are included in broader disaster planning categories such as “special needs populations” or “at-risk populations.” The increasing frequency and scale of disasters has made the needs of children a critical element of disaster planning. When assessing how to meet the needs of children in disasters, some consideration needs to be given to whether existing statutory authority provides federal agencies the flexibility to meet those needs, or whether congressional intervention is necessary to ensure that special provisions are made for children.

The range of activities associated with meeting the needs of children in disasters spans multiple levels of government and the private and nonprofit sectors of society. While there is an undeniable need to prevent loss of life and provide for the quality of life for children, there remains some question about the role of various stakeholders in funding and coordinating emergency management activities. Evaluating the recommendations of the Commission within the context of existing statutory and regulatory provisions may also provide some insight into the gaps in funding and coordination, and the appropriate federal role, in caring for children affected by disasters.

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<sup>87</sup> 111<sup>th</sup> Congress, H.R. 3377, §102(a). If passed, this legislation would implement selected recommendations of the Integrated Public Alert Warning System Advisory Committee (IPAWS). For additional information on the Integrated Public Alert Warning System, see CRS Report RL32527, *The Emergency Alert System (EAS) and All-Hazard Warnings*, by (name redacted).

<sup>88</sup> H.R. 3377 provides additional federal assistance to states with building codes that meet specific criteria.

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