

1989—Pub. L. 101-126, §3(b)(8), made technical amendments to references to this subchapter and to sections 5104, 5105, 5106, 5106a, and 5106b of this title to reflect the insertion of title designations and renumbering of corresponding sections in original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 117(b) of Pub. L. 102-295 provided that: "Paragraph (2) of section 114(a) [42 U.S.C. 5106h(a)(2)], as amended by subsection (a), shall become effective on October 1 of the first fiscal year for which \$30,000,000 or more would be available under subsection (a)(2)(B)(ii) of such section 114 (if such subsection were in effect), and until such fiscal year, the second and third sentences of section 114(a) [see 1992 Amendment note above] (as in effect prior to the amendment made by such subsection (a)) shall continue in effect."

§ 5106i. Rule of construction

(a) In general

Nothing in this subchapter and subchapter III of this chapter shall be construed—

(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

(2) to require that a State find, or to prohibit a State from finding, child abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

(b) State requirement

Notwithstanding subsection (a) of this section, a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

(Pub. L. 93-247, title I, §113, formerly §115, as added and renumbered §113, Pub. L. 104-235, title I, §§112, 113(a)(1)(C), Oct. 3, 1996, 110 Stat. 3078, 3079; amended Pub. L. 111-320, title I, §121, Dec. 20, 2010, 124 Stat. 3478.)

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-320 substituted "child abuse or neglect" for "abuse or neglect".

§ 5107. Discretionary programs; authorization of appropriations

(a)(1) The Secretary of Health and Human Services, either directly, through grants to States and public and private, nonprofit organizations and agencies, or through jointly financed cooperative arrangements with States, public agencies, and other agencies and organi-

zations, is authorized to provide for activities of national significance related to child abuse prevention and treatment and adoption reform, including operation of a national center to collect and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(2) The Secretary, in carrying out the provisions of this subsection, shall provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with section 5101(a) of this title for each of the fiscal years 1982 and 1983.

(3) If the Secretary determines, in fiscal year 1982 or 1983, to carry out any of the activities described in section 5101(b) of this title, the Secretary shall carry out such activities through the National Center on Child Abuse and Neglect.

(b) There is authorized to be appropriated to carry out this section \$12,000,000 for each of the fiscal years 1982 and 1983. Of the amounts appropriated under this subsection for any fiscal year, not less than \$2,000,000 shall be available to carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 [42 U.S.C. 5111 et seq.].

(Pub. L. 97-35, title VI, §610, Aug. 13, 1981, 95 Stat. 488.)

REFERENCES IN TEXT

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, referred to in subsec. (b), is Pub. L. 95-266, Apr. 24, 1978, 92 Stat. 205, as amended. Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is classified generally to subchapter II (§5111 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 5101 of this title and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of title I of the Child Abuse Prevention and Treatment Act which comprises this subchapter.

SUBCHAPTER II—ADOPTION OPPORTUNITIES

§ 5111. Congressional findings and declaration of purpose

(a) Findings

Congress finds that—

(1) on the last day of fiscal year 2009, some 424,000 children were living in temporary foster family homes or other foster care settings;

(2) most children in foster care are victims of child abuse or neglect by their biological parents and their entry into foster care brought them the additional trauma of separation from their homes and often their communities;

(3) on average, children entering foster care have more physical and mental health needs than do children in the general population, and some require intensive services because the children entering foster care—

(A) were born to mothers who did not receive prenatal care;

(B) were born with life-threatening conditions or disabilities;

(C) were born addicted to alcohol or other drugs; or

(D) have HIV/AIDS;

(4) each year, thousands of children in foster care, regardless of their age, the size of the sibling group they are a part of, their racial or ethnic status, their medical condition, or any physical, mental or emotional disability they may have, are in need of placement with permanent, loving, adoptive families;

(5)(A) States have made important strides in increasing the number of children who are placed in permanent homes with adoptive parents and in reducing the length of time children wait for such a placement; and

(B) many thousands of children, however, still remain in institutions or foster homes solely because of legal and other barriers to such a placement;

(6)(A) on the last day of fiscal year 2009, there were 115,000 children waiting for adoption;

(B) children waiting for adoption have had parental rights of all living parents terminated or the children have a permanency goal of adoption;

(C)(i) the average age of children adopted with public child welfare agency involvement during fiscal year 2009 was a little more than 6 years; and

(ii) the average age of children waiting for adoption on the last day of that fiscal year was a little more than 8 years of age and more than 30,000 of those children were 12 years of age or older; and

(D)(i) 25 percent of the children adopted with public child welfare agency involvement during fiscal year 2009 were African-American; and

(ii) 30 percent of the children waiting for adoption on the last day of fiscal year 2009 were African-American;

(7) adoption may be the best alternative for assuring the healthy development of children placed in foster care;

(8) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement and adoption; and

(9) in order both to enhance the stability of and love in the home environments of such children and to avoid wasteful expenditures of public funds, such children—

(A) should not have medically indicated treatment withheld from them; or

(B) be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

(b) Purpose

It is the purpose of this subchapter to facilitate the elimination of barriers, including geographic barriers, to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly older children, minority children, and children with special needs, including disabled infants with life-threatening conditions, by providing a mechanism to—

(1) promote quality standards for adoption services, pre-placement, post-placement, and

post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(2) maintain an Internet-based national adoption information exchange system to—

(A) bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children;

(B) conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(C) connect placement agencies, prospective adoptive parents, and adoptive parents to resources designed to reduce barriers to adoption, support adoptive families, and ensure permanency; and

(3) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

(Pub. L. 95-266, title II, § 201, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98-457, title II, § 201, Oct. 9, 1984, 98 Stat. 1755; Pub. L. 102-295, title IV, § 401, May 28, 1992, 106 Stat. 211; Pub. L. 104-235, title II, § 211, Oct. 3, 1996, 110 Stat. 3090; Pub. L. 108-36, title II, § 201, June 25, 2003, 117 Stat. 818; Pub. L. 111-320, title III, § 301(a), Dec. 20, 2010, 124 Stat. 3510.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-320, § 301(a)(1), added subsec. (a) and struck out former subsec. (a) which related to findings on children in institutions or foster homes.

Subsec. (b). Pub. L. 111-320, § 301(a)(2)(A), inserted “older children, minority children, and” after “particularly” in introductory provisions.

Subsec. (b)(2). Pub. L. 111-320, § 301(a)(2)(B), added par. (2) and struck out former par. (2) which read as follows: “maintain an Internet-based national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and”.

2003—Subsec. (a)(1) to (3). Pub. L. 108-36, § 201(1)(A), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) the number of children in substitute care increased by nearly 61 percent between 1986 and 1994, as our Nation’s foster care population included more than 452,000 as of June 1994;

“(2) increasingly children entering foster care have complex problems which require intensive services;

“(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;”.

Subsec. (a)(4). Pub. L. 108-36, § 201(1)(A), (D), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;”.

Subsec. (a)(5). Pub. L. 108-36, § 201(1)(D), redesignated par. (7) as (5). Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 108-36, § 201(1)(B), (D), redesignated par. (8) as (6) and struck out former par. (6) which read as follows: “the majority of such children are of school age, members of sibling groups or disabled;”.

Subsec. (a)(7). Pub. L. 108-36, §201(1)(D), redesignated par. (9) as (7). Former par. (7) redesignated (5).

Subsec. (a)(7)(A). Pub. L. 108-36, §201(1)(C), added subpar. (A) and struck out former subpar. (A) which read as follows: "currently, 40,000 children are free for adoption and awaiting placement;"

Subsec. (a)(8) to (10). Pub. L. 108-36, §201(1)(D), redesignated pars. (8) to (10) as (6) to (8), respectively.

Subsec. (b). Pub. L. 108-36, §201(2)(A), inserted ", including geographic barriers," after "barriers" in introductory provisions.

Subsec. (b)(2). Pub. L. 108-36, §201(2)(B), substituted "an Internet-based national" for "a national".

1996—Subsec. (a)(1). Pub. L. 104-235, §211(1)(A), substituted "61 percent between 1986 and 1994" for "50 percent between 1985 and 1990" and "452,000 as of June 1994" for "400,000 children at the end of June, 1990".

Subsec. (a)(5). Pub. L. 104-235, §211(1)(B), substituted "legal" for "local".

Subsec. (a)(7). Pub. L. 104-235, §211(1)(C), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "currently one-half of children free for adoption and awaiting placement are minorities;"

Subsec. (b). Pub. L. 104-235, §211(2), substituted "conditions, by providing a mechanism to—" for "conditions, by—

"(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

"(2) providing a mechanism for the Department of Health and Human Services to—", redesignated subpars. (A) to (C) of former par. (2) as pars. (1) to (3), respectively, and realigned margins.

1992—Pub. L. 102-295 amended section generally, designating existing provisions as subsecs. (a) and (b), inserting findings relating to the number of children in substitute care, foster care children with complex problems which require intensive services, infants born without prenatal care, addicted to alcohol or other drugs, or exposed to infection with the etiologic agent for human immunodeficiency virus, and percentage of children awaiting adoption who are minorities, inserting as purposes of this subchapter to provide a mechanism to recruit prospective parents for children awaiting adoption and to demonstrate expeditious ways to free children for adoption, and striking out as a purpose to provide a mechanism to coordinate with Federal departments and agencies to provide national adoption and foster care information data-gathering and analysis system.

1984—Pub. L. 98-457, §201(a), (b)(1), in provisions before par. (1), inserted "the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and that some such children are in need of placement in permanent, adoptive homes, that" and substituted "should not have medically indicated treatment withheld from them, nor be maintained in foster care" for "should not be maintained in foster care" and "children with special needs, including disabled infants with life-threatening conditions, by" for "children with special needs by".

Par. (2). Pub. L. 98-457, §201(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "providing a mechanism for the Department of Health and Human Services to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children."

STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES

Pub. L. 105-89, title II, §202(c), Nov. 19, 1997, 111 Stat. 2126, provided that:

"(1) IN GENERAL.—The Comptroller General of the United States shall—

"(A) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions; and

"(B) examine, at a minimum, interjurisdictional adoption issues—

"(i) concerning the recruitment of prospective adoptive families from other States and counties;

"(ii) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

"(iii) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

"(iv) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children.

"(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Nov. 19, 1997], the Comptroller General shall submit to the appropriate committees of the Congress a report that includes—

"(A) the results of the study conducted under paragraph (1); and

"(B) recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements."

§ 5112. Repealed. Pub. L. 102-295, title IV, § 402, May 28, 1992, 106 Stat. 213

Section, Pub. L. 95-266, title II, §202, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98-457, title II, §202, Oct. 9, 1984, 98 Stat. 1756, related to model adoption legislation and procedures.

§ 5113. Information and services

(a) In general

The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this subchapter. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of older children, minority children, and children with special needs, particularly infants and toddlers with disabilities who have life-threatening conditions, and services to families considering adoption of children with special needs.

(b) Required activities

In connection with carrying out the provisions of this subchapter, the Secretary shall—

(1) conduct (directly or by grant to or contract with public or private agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services