

amended Pub. L. 101-126, §3(a)(1), (2), (b)(8), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102-295, title I, §117(a), May 28, 1992, 106 Stat. 197; renumbered §112 and amended Pub. L. 104-235, title I, §§111, 113(a)(1)(B), Oct. 3, 1996, 110 Stat. 3078, 3079; Pub. L. 108-36, title I, §117, June 25, 2003, 117 Stat. 812; Pub. L. 111-320, title I, §120, Dec. 20, 2010, 124 Stat. 3477.)

PRIOR PROVISIONS

A prior section 112 of Pub. L. 93-247 was renumbered section 110 and is classified to section 5106f of this title.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-320 substituted “2010” for “2004” and “2011 through 2015” for “2005 through 2008”.

2003—Subsec. (a)(1). Pub. L. 108-36, §117(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this subchapter, \$100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.”

Subsec. (a)(2)(B). Pub. L. 108-36, §117(b), substituted “Secretary shall make” for “Secretary make” and “section 5105” for “section 5106a”.

1996—Subsec. (a). Pub. L. 104-235 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows:

“(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this subchapter, except for section 5106a-1 of this title, \$100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

“(2) ALLOCATIONS.—

“(A) Of the amounts appropriated under paragraph (1) for a fiscal year, \$5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 5106a(g) of this title.

“(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

“(i) 33 $\frac{1}{3}$ percent shall be available for activities under sections 5104, 5105, and 5106 of this title; and

“(ii) 66 $\frac{2}{3}$ percent of such amounts shall be made available in each such fiscal year for activities under sections 5106a and 5106b of this title.”

1992—Subsec. (a). Pub. L. 102-295 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There are authorized to be appropriated for purposes of carrying out this subchapter \$48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, except as provided in the succeeding sentence (1)(A) \$11,000,000 shall be available for activities under sections 5104, 5105, and 5106 of this title, and (B), \$9,000,000 shall be available in each fiscal year for activities under sections 5106a(a) and 5106b of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) \$5,000,000 shall be available in each such year for grants and contracts under section 5106(a) of this title, for identification, treatment, and prevention of sexual abuse, and (3) \$5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 5106a(f) of this title. With respect to any fiscal year in which the total amount appropriated under this section is less than \$30,000,000, no less than \$20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence.”

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

Pub. L. 102-295, title I, §117(b), May 28, 1992, 106 Stat. 197, 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 organizations, 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