

threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.

(Aug. 14, 1935, ch. 531, title XI, §1129B, as added Pub. L. 108-203, title II, §206, Mar. 2, 2004, 118 Stat. 512.)

§ 1320a-9. Demonstration projects

(a) Authority to approve demonstration projects

(1) In general

The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of subchapter IV.

(2) Limitation

During fiscal years 2012 through 2014, the Secretary may authorize demonstration projects described in paragraph (1), with not more than 10 demonstration projects to be authorized in each fiscal year.

(3) Conditions for State eligibility

For purposes of a new demonstration project under this section that is initially approved in any of fiscal years 2012 through 2014, a State shall be authorized to conduct such demonstration project only if the State satisfies the following conditions:

(A) Identify 1 or more goals

(i) In general

The State shall demonstrate that the demonstration project is designed to accomplish 1 or more of the following goals:

(I) Increase permanency for all infants, children, and youth by reducing the time in foster placements when possible and promoting a successful transition to adulthood for older youth.

(II) Increase positive outcomes for infants, children, youth, and families in their homes and communities, including tribal communities, and improve the safety and well-being of infants, children, and youth.

(III) Prevent child abuse and neglect and the re-entry of infants, children, and youth into foster care.

(ii) Long-term therapeutic family treatment centers; addressing domestic violence

With respect to a demonstration project that is designed to accomplish 1 or more of the goals described in clause (i), the State may elect to establish a program—

(I) to permit foster care maintenance payments to be made under part E of subchapter IV to a long-term therapeutic family treatment center (as described in paragraph (8)(B)) on behalf of a child residing in the center; or

(II) to identify and address domestic violence that endangers children and results in the placement of children in foster care.

(B) Demonstrate readiness

The State shall demonstrate through a narrative description the State's capacity to

effectively use the authority to conduct a demonstration project under this section by identifying changes the State has made or plans to make in policies, procedures, or other elements of the State's child welfare program that will enable the State to successfully achieve the goal or goals of the project.

(C) Demonstrate implemented or planned child welfare program improvement policies

(i) In general

The State shall demonstrate that the State has implemented, or plans to implement within 3 years of the date on which the State submits its application to conduct the demonstration project or 2 years after the date on which the Secretary approves such demonstration project (whichever is later), at least 2 of the child welfare program improvement policies described in paragraph (7).

(ii) Previous implementation

For purposes of the requirement described in clause (i), at least 1 of the child welfare program improvement policies to be implemented by the State shall be a policy that the State has not previously implemented as of the date on which the State submits an application to conduct the demonstration project.

(iii) Implementation review

The Secretary may terminate the authority of a State to conduct a demonstration project under this section if, after the 3-year period following approval of the demonstration project, the State has not made significant progress in implementing the child welfare program improvement policies proposed by the State under clause (i).

(4) Limitation on eligibility

The Secretary may not authorize a State to conduct a demonstration project under this section if the State fails to provide health insurance coverage to any child with special needs (as determined under section 673(c) of this title) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents.

(5) Requirement to consider effect of project on terms and conditions of certain court orders

In considering an application to conduct a demonstration project under this section that has been submitted by a State in which there is in effect a court order determining that the State's child welfare program has failed to comply with the provisions of part B or E of subchapter IV, or with the Constitution of the United States, the Secretary shall take into consideration the effect of approving the proposed project on the terms and conditions of the court order related to the failure to comply and the ability of the State to implement a corrective action plan approved under section 1320a-2a of this title.

(6) Inapplicability of random assignment for control groups as a factor for approval of demonstration projects

For purposes of evaluating an application to conduct a demonstration project under this section, the Secretary shall not take into consideration whether such project requires random assignment of children and families to groups served under the project and to control groups.

(7) Child welfare program improvement policies

For purposes of paragraph (3)(C), the child welfare program improvement policies described in this paragraph are the following:

(A) The establishment of a bill of rights for infants, children, and youth in foster care that is widely shared and clearly outlines protections for infants, children, and youth, such as assuring frequent visits with parents, siblings, and caseworkers, access to attorneys, and participation in age-appropriate extracurricular activities, and procedures for ensuring the protections are provided.

(B) The development and implementation of a plan for meeting the health and mental health needs of infants, children, and youth in foster care that includes ensuring that the provision of health and mental health care is child-specific, comprehensive, appropriate, and consistent (through means such as ensuring the infant, child, or youth has a medical home, regular wellness medical visits, and addressing the issue of trauma, when appropriate).

(C) The inclusion in the State plan under section 671 of this title of an amendment implementing the option under subsection (a)(28) of that section to enter into kinship guardianship assistance agreements.

(D) The election under the State plan under section 671 of this title to define a “child” for purposes of the provision of foster care maintenance payments, adoption assistance payments, and kinship guardianship assistance payments, so as to include individuals described in each of subclauses (I), (II), and (III) of section 675(8)(B)(i) of this title who have not attained age 21.

(E) The development and implementation of a plan that ensures congregate care is used appropriately and reduces the placement of children and youth in such care.

(F) Of those infants, children, and youth in out-of-home placements, substantially increasing the number of cases of siblings who are in the same foster care, kinship guardianship, or adoptive placement, above the number of such cases in fiscal year 2008.

(G) The development and implementation of a plan to improve the recruitment and retention of high quality foster family homes trained to help assist infants, children, and youth swiftly secure permanent families. Supports for foster families under such a plan may include increasing maintenance payments to more adequately meet the needs of infants, children, and youth in foster care and expanding training, respite

care, and other support services for foster parents.

(H) The establishment of procedures designed to assist youth as they prepare for their transition out of foster care, such as arranging for participation in age-appropriate extra-curricular activities, providing appropriate access to cell phones, computers, and opportunities to obtain a driver’s license, providing notification of all sibling placements if siblings are in care and sibling location if siblings are out of care, and providing counseling and financial support for post-secondary education.

(I) The inclusion in the State plan under section 671 of this title of a description of State procedures for—

(i) ensuring that youth in foster care who have attained age 16 are engaged in discussions, including during the development of the transition plans required under paragraphs (1)(D) and (5)(H) of section 675 of this title, that explore whether the youth wishes to reconnect with the youth’s biological family, including parents, grandparents, and siblings, and, if so, what skills and strategies the youth will need to successfully and safely reconnect with those family members;

(ii) providing appropriate guidance and services to youth whom¹ affirm an intent to reconnect with biological family members on how to successfully and safely manage such reconnections; and

(iii) making, when appropriate, efforts to include biological family members in such reconnection efforts.

(J) The establishment of one or more of the following programs designed to prevent infants, children, and youth from entering foster care or to provide permanency for infants, children, and youth in foster care:

(i) An intensive family finding program.

(ii) A kinship navigator program.

(iii) A family counseling program, such as a family group decision-making program, and which may include in-home peer support for families.

(iv) A comprehensive family-based substance abuse treatment program.

(v) A program under which special efforts are made to identify and address domestic violence that endangers infants, children, and youth and puts them at risk of entering foster care.

(vi) A mentoring program.

(8) Definitions

In this subsection—

(A) the term “youth” means, with respect to a State, an individual who has attained age 12 but has not attained the age at which an individual is no longer considered to be a child under the State plans under parts B and E of subchapter IV, and

(B) the term “long-term therapeutic family treatment center” means a State licensed or certified program that enables parents and their children to live together in a

¹ So in original. Probably should be “who”.

safe environment for a period of not less than 6 months and provides, on-site or by referral, substance abuse treatment services, children's early intervention services, family counseling, legal services, medical care, mental health services, nursery and pre-school, parenting skills training, pediatric care, prenatal care, sexual abuse therapy, relapse prevention, transportation, and job or vocational training or classes leading to a secondary school diploma or a certificate of general equivalence.

(b) Waiver authority

The Secretary may waive compliance with any requirement of part B or E of subchapter IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

- (1) any provision of section 622(b)(8) of this title, or section 679 of this title; or
- (2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

(c) Treatment as program expenditures

For purposes of parts B and E of subchapter IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

(d) Duration of demonstration

(1) In general

Subject to paragraph (2), a demonstration project under this section may be conducted for not more than 5 years, unless in the judgment of the Secretary, the demonstration project should be allowed to continue.

(2) Termination of authority

In no event shall a demonstration project under this section be conducted after September 30, 2019.

(e) Application

Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

- (1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project;
- (2) a statement of the period during which the proposed project would be conducted;
- (3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);
- (4) an estimate of the costs or savings of the proposed project;
- (5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

(6) a description of the proposed evaluation design;

(7) an accounting of any additional Federal, State, and local investments made, as well as any private investments made in coordination with the State, during the 2 fiscal years preceding the application to provide the services described in paragraph (1), and an assurance that the State will provide an accounting of that same spending for each year of an approved demonstration project; and

(8) such additional information as the Secretary may require.

(f) Evaluations

Each State authorized to conduct a demonstration project under this section shall obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

- (1) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;
- (2) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and
- (3) any other information that the Secretary may require.

(g) Reports

(1) State reports; public availability

Each State authorized to conduct a demonstration project under this section shall—

- (A) submit periodic reports to the Secretary on the specific programs, activities, and strategies used to improve outcomes for infants, children, youth, and families and the results achieved for infants, children, and youth during the conduct of the demonstration project, including with respect to those infants, children, and youth who are prevented from entering foster care, infants, children, and youth in foster care, and infants, children, and youth who move from foster care to permanent families; and
- (B) post a copy of each such report on the website for the State child welfare program concurrent with the submission of the report to the Secretary.

(2) Reports to Congress

The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

- (A) periodic reports based on the State reports submitted under paragraph (1); and
- (B) a report based on the results of the State evaluations required under subsection (f) that includes an analysis of the results of such evaluations and such recommendations for administrative or legislative changes as the Secretary determines appropriate.

(h) Cost neutrality

The Secretary may not authorize a State to conduct a demonstration project under this sec-

tion unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of subchapter IV if the project were not conducted.

(i) Indian tribes operating IV-E programs considered States

An Indian tribe, tribal organization, or tribal consortium that has elected to operate a program under part E of subchapter IV in accordance with section 679c of this title shall be considered a State for purposes of this section.

(Aug. 14, 1935, ch. 531, title XI, §1130, as added Pub. L. 103-432, title II, §208, Oct. 31, 1994, 108 Stat. 4457; amended Pub. L. 105-89, title III, §301(a), (c), Nov. 19, 1997, 111 Stat. 2127, 2128; Pub. L. 108-40, §5, June 30, 2003, 117 Stat. 837; Pub. L. 109-288, §6(f)(8), Sept. 28, 2006, 120 Stat. 1248; Pub. L. 112-34, title II, §201, Sept. 30, 2011, 125 Stat. 378.)

PRIOR PROVISIONS

A prior section 1130 of act Aug. 14, 1935, was classified to section 1320b of this title prior to repeal by Pub. L. 93-647, §3(e)(1), Jan. 4, 1975, 88 Stat. 2349.

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112-34, §201(1)(A), amended par. (2) generally. Prior to amendment, text read as follows: “The Secretary may authorize not more than 10 demonstration projects under paragraph (1) in each of fiscal years 1998 through 2003.”

Subsec. (a)(3). Pub. L. 112-34, §201(1)(B), added par. (3) and struck out former par. (3) which related to certain types of proposals required to be considered.

Subsec. (a)(5). Pub. L. 112-34, §201(1)(C), inserted “and the ability of the State to implement a corrective action plan approved under section 1320a-2a of this title” before the period.

Subsec. (a)(6) to (8). Pub. L. 112-34, §201(1)(D), added pars. (6) to (8).

Subsec. (d). Pub. L. 112-34, §201(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “A demonstration project under this section may be conducted for not more than 5 years, unless in the judgment of the Secretary, the demonstration project should be allowed to continue.”

Subsec. (e)(1). Pub. L. 112-34, §201(3)(A), struck out “(which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups)” before the semicolon.

Subsec. (e)(7), (8). Pub. L. 112-34, §201(3)(B)-(D), added par. (7) and redesignated former par. (7) as (8).

Subsecs. (f) to (h). Pub. L. 112-34, §201(4), (5), added subsecs. (f) and (g), redesignated former subsec. (g) as (h), and struck out former subsec. (f) which related to evaluation of, and report on, demonstration projects.

Subsec. (i). Pub. L. 112-34, §201(6), added subsec. (i).

2006—Subsec. (b)(1). Pub. L. 109-288 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “any provision of section 627 of this title (as in effect before April 1, 1996), section 622(b)(9) of this title (as in effect after such date), or section 679 of this title; or”.

2003—Subsec. (a)(2). Pub. L. 108-40 substituted “2003” for “2002”.

1997—Subsec. (a). Pub. L. 105-89, §301(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the

Secretary finds are likely to promote the objectives of part B or E of subchapter IV of this chapter.”

Subsec. (d). Pub. L. 105-89, §301(c), inserted before period at end “, unless in the judgment of the Secretary, the demonstration project should be allowed to continue”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under parts B and E of subchapter IV of this chapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-40 effective July 1, 2003, see section 8 of Pub. L. 108-40, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

CONSTRUCTION OF 1997 AMENDMENT

Pub. L. 105-89, title III, §301(b), Nov. 19, 1997, 111 Stat. 2128, provided that: “Nothing in the amendment made by subsection (a) [amending this section] shall be construed as affecting the terms and conditions of any demonstration project approved under section 1130 of the Social Security Act (42 U.S.C. 1320a-9) before the date of the enactment of this Act [Nov. 19, 1997].”

§ 1320a-10. Effect of failure to carry out State plan

In an action brought to enforce a provision of this chapter, such provision is not to be deemed unenforceable because of its inclusion in a section of this chapter requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however*, That this section is not intended to alter the holding in *Suter v. Artist M.* that section 671(a)(15) of this title is not enforceable in a private right of action.

(Aug. 14, 1935, ch. 531, title XI, §1130A, as added Pub. L. 103-432, title II, §211(a), Oct. 31, 1994, 108 Stat. 4460.)

EFFECTIVE DATE

Pub. L. 103-432, title II, §211(b), Oct. 31, 1994, 108 Stat. 4460, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to actions pending on the date of the enactment of this Act [Oct. 31, 1994] and to actions brought on or after such date of enactment.”

§ 1320b. Repealed. Pub. L. 93-647, § 3(e)(1), Jan. 4, 1975, 88 Stat. 2349

Section, act Aug. 14, 1935, ch. 531, title XI, §1130, as added Oct. 20, 1972, Pub. L. 92-512, title III, §301(a), 86 Stat. 945; amended July 9, 1973, Pub. L. 93-66, title II, §221, 87 Stat. 159; Dec. 31, 1973, Pub. L. 93-233, §18(j), 87