

Fostering Connections to Success and Increasing Adoptions Act



FRANK E. VANDERVORT
UNIVERSITY OF MICHIGAN LAW SCHOOL

Background



- **P.L. 110-351**

- **Signed into law October 7, 2008**

- **Amends Titles IV-B and IV-E of the Social Security Act**
 - 42 U.S.C. 629 et seq.
 - 42 U.S.C. 670 et seq.

Rationale for the Law



- **18,500 – 25,000 young people age out annually**

- **For most youth, transition to adulthood and independence is gradual**
 - Foster youth are emancipated quickly and permanently
 - Many have been in the system for years
 - Numerous placements

Rationale for the Law



- **Many youth aging out of foster care have poor outcomes**
 - Homelessness
 - Incarceration
 - Pregnancy
 - Unemployment
 - Health outcomes
 - College enrollment or class completion

How it Works



- **Supplements / Complements Chaffee legislation**
- **Youth in Transition Program**

Overview



- **Subsidized relative guardianship for children who have been in foster care**
- **Engaging extended family**
 - ✦ Matching grants to help fund programs to locate extended family members
 - ✦ Notification of extended family members

Overview



- **Youth aging out**
 - Extend jurisdictional age
 - Transition plans
- **Funds for training**
- **Educational stability**
- **Health care oversight**

Overview



- **Sibling placements in foster care, guardianship and adoption**
- **Tribal programs (allows tribes to access federal funding directly rather than through state)**
- **Extends adoption incentives**
- **Tax implications of adoption from foster care**

Subsidized Guardianship--Detail



- Provides states the *option* to establish “kinship guardianship assistance” program
 - Grandparents and other relatives
 - GP/Relative must assume guardianship of the child
 - Must have cared for the child as a foster parent
 - Must commit to caring for the child permanently

Subsidized Guardianship—Detail



- State must adopt a plan and program for subsidized relative guardianships
 - Michigan—Subsidized Guardianship Assistance Act, MCL 722.871 et seq.
 - ✦ Must have lived with the relative for 6 months
 - ✦ Must rule out adoption as a permanency plan
 - ✦ Must document need to provide subsidy
 - ✦ Can continue to age 19 if youth in high school (18 if not attending high school)

Subsidized Guardianship--Detail



- State and relative
 - Enter a binding kinship guardianship assistance agreement
 - ✦ How and amount of payments to be made
 - ✦ Amount and method of payment may be changed from time-to-time

Subsidized Guardianship--Detail



- ✦ Outline other services child/relative will receive
- ✦ Outline how relative can apply for additional services if necessary
- ✦ State will pay non-reoccurring costs of establishing the guardianship (e.g., filing fees) up to \$2000
- ✦ Agreement must remain in effect across jurisdictions
- Payments cannot exceed the foster care payments

Subsidized Guardianship—Detail



- **Child's eligibility**
 - Child removed —voluntary or court ordered
 - Eligible for foster care payments under Title IV-E “while residing for 6 consecutive months in the home of the prospective relative guardian”
 - ***Return home*** and ***adoption*** are not viable options for the child
 - Child strongly attached to relative . . . relative strongly committed to child

Subsidized Guardianship--Detail



- If 14, child must be “consulted”
- If one child eligible for subsidized kinship guardianship, sibs are also eligible for g’ship placement with same kin provider
 - Payment made for *each* child
- If child subsequently adopted, g’ship payments do not effect adoption subsidy

Changes to State Plan



- **State's plan under Title IV-E must provide for criminal background checks including fingerprint checks of national data bases of**
 - Prospective relative guardian
 - Any other adult living in the prospective guardian's home

Child's Case Plan



- **42 USC 675 requires that each child have a written case plan**
- **If relative-g'ship is permanency plan, case plan must document**
 - Steps taken to determine return home or adoption are not appropriate
 - Reasons for separation of sibs
 - Why permanent placement with relative is in child's best interests

Child's Case Plan



- Why child meets eligibility requirements for kinship g'ship payments
- Efforts agency has made to discuss adoption with the relative and why the relative wishes to pursue guardianship rather than adoption
- Efforts made by agency to discuss guardianship with the parent or reasons why those efforts not made

Independent Living Educational and Training Vouchers



- Kids who enter kinship guardianships after reaching age 16 are eligible for independent living services
 - Youth in transition program
- Kids who leave foster care for kinship guardianships after age 16 are eligible for educational and training vouchers

Medicaid



- Provides that kids who exit foster care via kinship guardianship are eligible for medicaid benefits.

Family Connection Grants



- Matching grant program (to state or local CW orgs., tribes, or *non-profit orgs.*)
 - Kinship navigator programs
 - × Program to assist kin caregivers to obtain services needed for the children they are caring for
 - × Coordinate services
 - × Link care providers with service providers (e.g., training, legal services)
 - Intensive family-finding efforts
 - × Use search technology to locate extended family, assist them to reestablish relationships with children, consider permanency

Family Connection Grants



- Family-group decision-making
 - ✦ Assists families to make decision re children
 - ✦ Addresses DV in a safe manner and helps kids to connect to services and victim-parent

- Helps fund residential treatment programs
 - ✦ Provides for parent and children to live together for at least 6 months
 - ✦ Provides sub abuse treatment, early intervention services for children, family counseling, medical, dental, mental health, nursery, pre-school

State Plan



- 42 USC 671 requires state plan
 - Must provide that W/I 30 days of child's removal, DHS must "exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child"
 - ✦ Legal notice?

State Plan

- Notice must explain—
 - ✦ That the child has been removed
 - ✦ Relatives' options to participate in care and placement
 - ✦ Requirements for becoming licensed
 - ✦ State's kinship guardianship program

Extend Time in Foster Care

- Permits states to choose to keep you in foster care/provide adoption or kinship assistance until age 21 so long as youth
 - Is completing high school
 - Enrolled in college or vocational school
 - Participating in employment-related program
 - Employed for at least 80 hrs./month
 - Incapable due to incapacity of doing one of these

Transition Plan for Youth Aging Out



- **Requires State agency to develop WITH THE YOUTH a transition plan**
 - 90 days before date on which youth will age out of system
 - Plan must be “personalized at the direction of the child”
 - Must be specific as to—housing, health insurance, education, mentors, continuing support services, employment services

Funds for Training



- **Provides funding to support training of court personnel, lawyers for each party, and CASAs to provide support for children living with relative guardians**

Educational Stability



- **Requires individual child's case plan to include**
 - An assurance that the child's placement in FC takes into consideration the appropriateness of the educational placement and the proximity of the school in which the child is enrolled
 - Requires that State agency coordinates with educational authorities to maintain child's school placement if doing so is in child's best interests

Educational Stability



- ✦ If remaining in school not in child's B-I, then agency and educ. Agencies must provide for "immediate and appropriate enrollment in a new school"
- Permits the agency to expend money for transportation services to ensure that the child remains in the same school

Health Oversight



- **State must develop a plan to ensure that children in foster care are receiving needed health care services**
 - Including dental and mental health care
 - Initial and follow-up health screening
 - Continuity of health care
 - Oversight of prescription medications

Sibling Placement



- **State plan must**
 - Provide for reasonable efforts to be made to place siblings together unless State documents reason placement together is contrary to the welfare of one of the kids
 - If placement is not together, must make reasonable efforts to ensure “frequent visitation or ongoing interaction” between sibs unless contrary to welfare of one of the children

Adoption Incentives



- **Extends the program of adoption incentive payments paid by the federal government to the states**
- **Increases the amount of adoption incentive payments aimed at incentivizing the adoption of children out of the foster care system, particularly older youth.**