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**Detailed Summary of the
The Adoption and Safe Families Act
Stresses Child's Safety in all Placement Decisions,
and Provides Incentives for Adoptions**

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Emphasizes the Safety of the Child - in home and in foster care

First the law clarifies the intent of the "reasonable efforts" requirement which appears in the Family Preservation and Support Services Act (P.L. 96-272). The 1984 law states that the state must make reasonable efforts to prevent or eliminate the need for removing a child from his home, or if the child has been removed, then the state must make reasonable efforts to reunify the child with his family in a timely manner. The new statute now stresses that **the child's health and safety shall be the paramount concern** in determining what is reasonable, and consistent with the plan for timely, permanent placement of a child. The "reasonable efforts" requirement can be waived entirely in certain circumstances, such as if the parent had committed a felony assault causing serious bodily injury to the child or sibling; committed or attempted murder or voluntary manslaughter of a sibling; aggravated circumstances including abandonment, torture, chronic abuse or sexual abuse; or if the parental rights to a sibling had been terminated involuntarily.

The law also emphasizes that the safety of children in foster care must be considered in case plans and case reviews. Dual planning is allowed. That is, reasonable efforts may be made to reunify the child with his family concurrently with efforts to place a child in an adoptive family or with a legal guardian.

Criminal records checks must be conducted for prospective foster and adoptive parents before they are approved for placement of a child who qualifies them to receive maintenance or adoption assistance payments. Prospective caretakers are disqualified if their record check reveals a felony conviction of child abuse or neglect, spousal abuse, or violent crime at any time, or a conviction of physical assault, battery or drug-related offense within the last 5 years. States are able to override the requirement for criminal records checks by passing state legislation or providing written notification by the governor to the U.S. Secretary of Health and Human Services.

Shortens Time Frame for Permanent Placement

Services to reunify families funded under Title IV-B should not extend beyond 15 months. These services include counseling, substance abuse treatment services, domestic violence services, temporary child care and related services.

A petition to terminate parental rights shall be filed for parents whose child has been in foster care for 15 of the last 22 months; if a court has determined a child is an abandoned infant; or in the circumstances described under "reasonable efforts" above. The state may proceed to recruit and process a qualified family for adoption when the petition is filed. The law allows for exceptions, such as if the child is being cared for by a relative; the case plan documents a compelling reason that termination would not be in the best interests of the child; or if the state did not

make reasonable efforts or provide services to the family within the time period of the case plan.

The beginning of foster care is determined as either the date of the first judicial finding that a child has been abused or neglected; or 60 days after the child is removed from home, whichever is earlier. The new time frame in which to terminate parental rights is effective immediately for all children entering foster care after November 19, 1997, the date of enactment. In the cases of children already in foster care before the law was enacted, there is a formula by which states can transition into compliance. The formula allows the states a total of 18 months after the end of the first state legislative session to fully comply. For each six month period after the close of the state legislative session, states shall select 1/3 of the children who have been in foster care prior to 11/19/97, giving priority to children in foster care the greatest length of time and for whom adoption is the permanency plan.

The role of the CASA or guardian ad litem becomes even more critical with the shorter time frame that a child can remain in foster care. The courts and child welfare agencies will still be dealing with overwhelming caseloads, yet have less time to devote to an individual child's case. CASA's can be an assurance that the child has an advocate that will take the time to thoroughly research the child's situation, and important facts are not overlooked.

The new law allows foster parents, relative caregivers or preadoptive parents to receive notice of, and the opportunity to be heard at, any review or hearing concerning the child. The provision does not intend that these individuals should be made parties to the review or hearing.

Incentives for Adoptions or Other Permanency Placements

The new law provides states with cash incentives to find permanent homes for children in foster care. A state will receive \$4,000 in federal funds for each foster child adoption which exceeds a base number of foster care adoptions in a fiscal year, and an additional \$2,000 for special needs adoptions. In fiscal 1998, the base number will be the average of adoptions in the previous 3 fiscal years. In succeeding years, through 2002, the base is the number of adoptions of the preceding fiscal year. States are to use the federal funds to provide post-adoption services to children and families.

Permanency planning hearings must be held within 12 months of a child's placement, rather than 18-month "dispositional hearing" as currently required under federal law. At the hearing, a determination shall be made on a permanency plan. That is, whether and when to reunify the child with his family; place the child in adoption, legal guardianship, or other permanent living arrangement; or to petition for termination of parental rights. When reasonable efforts are not required to unify a child with his parents, a permanency planning hearing must be held within 30 days of such determination.

For children whose permanency plan is adoption or placement in another permanent home, the child welfare agency must document the steps it has taken to locate a permanent home for the child, whether that be with an adoptive family, relative, legal guardian or other permanent living arrangement. At a minimum, the state should conduct child-specific recruitment efforts such as the use of state, regional and national adoption exchanges.

HHS will provide technical assistance, directly or through grants, to states and local communities to reach their targets for increased adoptions or alternative permanent placements for children in foster care. At least of 50% of the funds available for technical assistance will be targeted to help courts. Priorities for technical assistance will be to: 1) develop best practice guidelines to expedite termination of parental rights; 2) models to encourage dual planning; 3) develop specialized units and expertise in moving children toward adoption as a permanency goal; 4) develop risk assessment tools for early identification of children at risk of harm if returned home; 5) models to encourage fast tracking of children under age 1 into pre-adoptive homes; and 6) develop programs which place children into pre-adoptive families without waiting for termination of parental rights.

Addresses Geographic Barriers to Adoptions

In order to facilitate timely adoptions for waiting children across state and county jurisdictions, states are required to develop plans to utilize cross-jurisdictional resources. Title IV-E Foster Care and Adoption Assistance payments to the state are also predicated upon a state's cooperation in processing a child's adoptive placement if an approved family is available outside of the jurisdiction. In addition, the Office of the Comptroller General has been instructed to study cross-jurisdictional adoption issues, and consider procedures and policies to facilitate timely and permanent

adoptions. Recommendations to improve cross-jurisdictional placements must be reported to Congress by November, 1998.

Outcome Measures to Assess State Performance

The Secretary of Health and Human Services (HHS), in consultation with public officials and child advocates, will develop outcome measures, and rating system, to assess states' performance in child protection and child welfare programs. Measures should include length of stay in foster care, the number of placements and number of adoptions, and to the extent possible, utilize data available from the established Adoption and Foster Care Analysis and Reporting System (AFCARS). States will report their performance on each outcome measure, and the Secretary of HHS will provide an annual report to Congress beginning on May 1, 1999.

Congress is also requesting a recommendation for a performance-based incentive system from the Secretary of HHS, again in consultation with public officials and child advocates. The incentive system could provide Title IV-B and IV-E payments to states based upon their outcome performance.

The law also expands to 10 the number of states which may receive child welfare waivers to demonstrate new approaches to child welfare reform. Consideration will be given to state applications which: identify and address barriers to adoptions; parental substance abuse problems which endanger children and result in the placement of children in foster care; or kinship care. The states must provide health insurance to adopted children with special needs.

Continues Court Improvement and Family Preservation Programs

The Family Preservation and Support Services Act is reauthorized in the law through the year 2001, and now renamed as "Promoting Safe and Stable Families." Funding is increased by approximately \$20 million each year, which can be utilized by states for programs to prevent child abuse and neglect, assist families in crisis, and is now expanded to include reunification services and adoption promotion and support services. Federal support for the State Court Improvement Program is also authorized through the year 2001.

Expands Health Coverage for Special Needs Children and Independent Living Services

States must provide health insurance coverage for any child with special needs for whom the state determines cannot be placed without assistance to provide for the child's medical, mental health or rehabilitative care and there is an adoption assistance agreement with an adoptive parent. States can provide health coverage, including mental health, through the Medicaid option or another program which is at least equivalent to Medicaid. Children who were eligible for Title IV-E will also have their payments reinstated if their adoption was dissolved, or their adoptive parents died.

Independent Living Services are extended to young people whose assets do not exceed \$5,000, rather than the current \$1,000 cap. Services are designed to assist young people prepare for living independently when they leave foster care.

Kinship Care, Substance Abuse Subjects for Future Study

A national Advisory Panel on Kinship Care will be convened by the Secretary of HHS, which will report to Congress by June, 1999, the extent to which children in foster care are placed in the care of a relative. The report should include information on state policies regarding kinship care; demographics of relative caregivers; costs and funding; services provided to the kinship caregiver; and the circumstances under which children enter kinship care.

The extent of substance abuse as a factor in child welfare families will be reviewed by Congress in 1998. The Secretary of HHS will submit a report describing the scope of the problem, services provided to families, and the outcomes of such services. The Secretary may also submit legislative recommendations to improve coordination of substance abuse and child protective services.

Legal and Standby Guardianship

The term "legal guardian" is defined in the statute as a permanent relationship between child and caretaker and transfers parental rights to the caretaker for the child's protection, education, care, custody and decision-making.

The new law urges states to adopt laws and procedures to allow parents who are chronically ill or near death to designate a standby guardian for their children, without surrendering their parental rights.



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