

118TH CONGRESS
1ST SESSION

H. R. 4282

To protect individuals with disabilities who are parents, legal guardians, relatives, other caregivers, foster or adoptive parents, or individuals seeking to become foster or adoptive parents from discrimination in the child welfare system.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2023

Mrs. CHERFILUS-McCORMICK (for herself, Ms. NORTON, Mr. CARSON, Mr. SCHIFF, Mr. THOMPSON of Mississippi, Mr. EVANS, Mr. PAYNE, Mr. GRIJALVA, and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To protect individuals with disabilities who are parents, legal guardians, relatives, other caregivers, foster or adoptive parents, or individuals seeking to become foster or adoptive parents from discrimination in the child welfare system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equality for Families
5 with Disabilities Act”.

1 **SEC. 2. FINDING.**

2 The Congress finds that title II of the Americans
3 with Disabilities Act of 1990 and section 504 of the Reha-
4 bilitation Act of 1973 protect qualified individuals with
5 disabilities, which can include children, parents, legal
6 guardians, relatives, other caregivers, foster and adoptive
7 parents, and individuals seeking to become foster or adop-
8 tive parents, from discrimination by child welfare agencies
9 and courts.

10 **SEC. 3. STATE PLAN REQUIREMENTS FOR PROTECTING IN-**
11 **INDIVIDUALS WITH DISABILITIES WHO ARE**
12 **PARENTS, LEGAL GUARDIANS, RELATIVES,**
13 **OTHER CAREGIVERS, FOSTER OR ADOPTIVE**
14 **PARENTS, OR INDIVIDUALS SEEKING TO BE-**
15 **COME FOSTER OR ADOPTIVE PARENTS.**

16 (a) IN GENERAL.—Section 422(b) of the Social Secu-
17 rity Act (42 U.S.C. 622(b)) is amended—

18 (1) by striking “and” at the end of paragraph
19 (18);

20 (2) by striking the period at the end of para-
21 graph (19) and inserting a semicolon; and

22 (3) by adding at the end the following:

23 “(20) provide that the State will, in consulta-
24 tion with individuals with experience with the child
25 welfare system who are parents or caregivers with a
26 disability, or who are individuals whose parent or

1 caregiver had a disability, develop and explain the
2 procedural safeguards and supportive parenting
3 services provided to individuals with disabilities who
4 are parents, legal guardians, relatives, other care-
5 givers, foster or adoptive parents, or individuals
6 seeking to become foster or adoptive parents, from
7 the time of earliest interaction with a family through
8 any ongoing judicial or administrative proceeding,
9 including a description of how each such individual
10 receives—

11 “(A) a fact-specific, individualized par-
12 enting assessment that does not rely on gen-
13 eralizations but evaluates the strengths, needs,
14 and capabilities of the individual with a dis-
15 ability, based on objective evidence, personal
16 circumstances, and demonstrated competencies;
17 and

18 “(B) parenting education that is peer-re-
19 viewed or a best practice for use; and

20 “(21) demonstrate best efforts to provide sup-
21 portive services, accommodations, and effective com-
22 munication, directly or by referral, with follow-up to
23 ensure resource connection, to ensure full and equal
24 opportunities for participation by individuals with
25 disabilities who are parents, legal guardians, rel-

1 atives, other caregivers, foster or adoptive parents,
2 or individuals seeking to become foster or adoptive
3 parents, including by making available training on
4 the rights of individuals with disabilities who are in-
5 volved with child welfare proceedings and how to en-
6 sure full and equal participation of the individuals in
7 the proceedings, and, in the case of child welfare
8 professionals or court personnel, how to conduct par-
9 enting assessments and provide parenting education
10 to various populations of individuals with disabilities
11 to ensure that any restrictions on parental rights are
12 not imposed solely on the basis of disability.”.

13 (b) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 subsection (a) shall take effect 1 year after the ma-
16 terials required by section 5 of this Act are dissemi-
17 nated, and shall apply to payments under subpart 1
18 of part B of title IV of the Social Security Act for
19 calendar quarters beginning on or after such date.

20 (2) DELAY PERMITTED IF STATE LEGISLATION
21 REQUIRED.—If the Secretary of Health and Human
22 Services determines that State legislation (other
23 than legislation appropriating funds) is required in
24 order for a State plan developed pursuant to subpart
25 1 of part B of title IV of the Social Security Act to

1 meet the additional requirements imposed by the
2 amendments made by subsection (a), the plan shall
3 not be regarded as failing to meet any of the addi-
4 tional requirements before the 1st day of the 1st cal-
5 endar quarter beginning after the first regular ses-
6 sion of the State legislature that begins 1 year after
7 the materials required by section 5 of this Act are
8 disseminated. For purposes of the preceding sen-
9 tence, if the State has a 2-year legislative session,
10 each year of the session is deemed to be a separate
11 regular session of the State legislature.

12 **SEC. 4. AMENDMENTS TO THE STATE COURT IMPROVE-**
13 **MENT PROGRAM.**

14 (a) IN GENERAL.—Section 438 of the Social Security
15 Act (42 U.S.C. 629h) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by adding at the end
18 the following:

19 “(F) that determine child placements in
20 any case involving an individual with a dis-
21 ability who is a parent, legal guardian, relative,
22 other caregiver, foster or adoptive parent, or an
23 individual seeking to become an adoptive or fos-
24 ter parent;” and

25 (B) in paragraph (2)—

1 (i) by striking “and” at the end of
2 subparagraph (B);

3 (ii) in subparagraph (C), by striking
4 the period and inserting “and”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(D) to ensure full and equal opportunities
8 for individuals with disabilities who are parents,
9 legal guardians, relatives, other caregivers, fos-
10 ter or adoptive parents, or individuals seeking
11 to become foster or adoptive parents, consistent
12 with title II of the Americans with Disabilities
13 Act and section 504 of the Rehabilitation Act
14 of 1973.”; and

15 (2) in subsection (b)—

16 (A) by striking “and” at the end of para-
17 graph (2);

18 (B) in subparagraph (C)—

19 (i) by striking “(C) in the case of a
20 grant for any purpose described in sub-
21 section (a),” and inserting “(3)”; and

22 (ii) by striking the period and insert-
23 ing “; and”; and

24 (C) by adding at the end the following:

1 “(4) a demonstration of meaningful efforts by
2 the highest court in the State to ensure that each
3 court in the State affords full and equal opportuni-
4 ties for participation by individuals with disabilities
5 who are parents, legal guardians, relatives, other
6 caregivers, foster or adoptive parents, or individuals
7 seeking to become foster or adoptive parents, includ-
8 ing by working with the State agency administering,
9 or supervising the administration of, a plan under
10 this part or part E, and, as applicable, Indian tribes
11 or tribal organizations, to make available training on
12 the rights of individuals with disabilities who are in-
13 volved with child welfare proceedings and how to en-
14 sure full and equal participation of the individuals in
15 the proceedings, and, in the case of child welfare
16 professionals or court personnel, how to conduct par-
17 enting assessments and provide parenting education
18 to various populations of individuals with disabil-
19 ities.”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
21 subsection (a) shall take effect on the 1st day of the 1st
22 Federal fiscal year that begins after the date of the enact-
23 ment of this Act.

1 **SEC. 5. EDUCATION AND TRAINING.**

2 Subpart 1 of part B of title IV of the Social Security
3 Act (42 U.S.C. 620–628b) is amended by adding at the
4 end the following:

5 **“SEC. 429A. EDUCATION AND TRAINING.**

6 “(a) IN GENERAL.—The Secretary and the Attorney
7 General, in consultation with the entities referred to in
8 subsection (b), shall—

9 “(1) directly or by contract, jointly revise the
10 technical assistance provided in August 2015 for
11 State and local child welfare agencies and courts on
12 protecting the rights of parents and prospective par-
13 ents with disabilities, to—

14 “(A) include recommended minimum
15 guidelines for ensuring compliance with protec-
16 tions offered under Federal law, which shall re-
17 flect evidence-based or best practices in the
18 field;

19 “(B) address the amendments made by the
20 Equality for Families with Disabilities Act;

21 “(C) describe the requirements imposed by
22 or under the amendments and the mechanisms
23 by which the requirements will be enforced; and

24 “(D) include education and training mate-
25 rials that include, at minimum, guidelines for—

1 “(i) conducting individualized par-
2 enting assessments of persons with disabil-
3 ities that—

4 “(I) are, where possible, peer-re-
5 viewed or a best practice, and always
6 fact-specific; and

7 “(II) evaluate the strengths,
8 needs, and capabilities of a particular
9 person with disabilities based on ob-
10 jective evidence, personal cir-
11 cumstances, demonstrated com-
12 petencies, and other factors that are
13 divorced from generalizations and
14 stereotypes regarding people with dis-
15 abilities;

16 “(ii) providing full and equal opportu-
17 nities to benefit from or participate in
18 child welfare programs, services, and ac-
19 tivities that are equal to those extended to
20 individuals without disabilities, including
21 the use of disability-specific, peer-reviewed,
22 or best practice parenting training tools
23 and reasonable modifications in policies,
24 practices, and procedures when necessary
25 to avoid discrimination; and

1 “(iii) reunifying families in cases in-
2 volving individuals with disabilities;

3 “(2) ensure that the revised technical assistance
4 is addressed to States, Indian tribes, and courts;
5 and

6 “(3) within 1 year after the date of the enact-
7 ment of this section, disseminate the revised tech-
8 nical assistance to States, tribes, and courts.

9 “(b) CONSULTATION ENTITIES.—The entities re-
10 ferred to in this subsection shall include:

11 “(1) Federal entities, such as—

12 “(A) the Assistant Secretary for the Ad-
13 ministration for Children and Families of the
14 Department of Health and Human Services;

15 “(B) the Administrator of the Administra-
16 tion for Community Living of the Department
17 of Health and Human Services;

18 “(C) the Assistant Attorney General for
19 the Civil Rights Division of the Department of
20 Justice;

21 “(D) the Chairperson of the National
22 Council on Disability; and

23 “(E) the Commissioner of Administration
24 for Native Americans;

25 “(2) State, local, and tribal entities, such as—

1 “(A) State, local, and tribal child welfare
2 agencies;

3 “(B) Protection and Advocacy Systems;

4 “(C) a representative of the State Councils
5 on Developmental Disabilities;

6 “(D) a representative of the Conference of
7 Chief Justices; and

8 “(E) a representative of the Conference of
9 State Court Administrators;

10 “(3) disability and child welfare community en-
11 tities, such as—

12 “(A) individuals representing the disability
13 community and reflecting the diverse character-
14 istics of the members of that community, in-
15 cluding individuals with disabilities who have
16 been discriminated against in the child welfare
17 system; and

18 “(B) child welfare professionals;

19 “(4) individuals with experience with the child
20 welfare system who are parents or caregivers with a
21 disability, or who are individuals whose parent or
22 caregiver had a disability; and

23 “(5) representatives of such other agencies or
24 entities as the Secretary may designate.”.

1 **SEC. 6. REPORT TO CONGRESS.**

2 Within 4 years after the date of the enactment of this
3 Act, the Secretary of Health and Human Services shall
4 submit to the Committee on Ways and Means of the
5 House of Representatives and the Committee on Finance
6 of the Senate a written report on the implementation of
7 this Act. The report shall include the following:

8 (1) A description and analysis of amended
9 State plans for child welfare services that have been
10 submitted as a result of this Act, including the effect
11 of the amendments on the treatment of and opportu-
12 nities for participation afforded to individuals with
13 disabilities who are parents, legal guardians, rel-
14 atives, other caregivers, foster or adoptive parents,
15 or individuals seeking to become foster or adoptive
16 parents.

17 (2) A description of procedures put in place by
18 State agencies administering or supervising the ad-
19 ministration of a plan developed or approved under
20 part B or E of title IV of the Social Security Act
21 to ensure that each individual with a disability who
22 is a parent, legal guardian, relative, other caregiver,
23 foster or adoptive parent, or individual seeking to
24 become a foster or adoptive parent receives a fact-
25 specific, individualized parenting assessment and
26 parenting education.

1 (3) A description and analysis of efforts made
2 by the highest court of each State to afford full and
3 equal opportunities for participation by individuals
4 with disabilities who are parents, legal guardians,
5 relatives, other caregivers, foster or adoptive par-
6 ents, or individuals seeking to become foster or
7 adoptive parents who are involved in child welfare
8 proceedings.

9 (4) An analysis of the outcomes for individuals
10 with disabilities who are parents, legal guardians,
11 relatives, other caregivers, foster or adoptive par-
12 ents, or individuals seeking to become foster or
13 adoptive parents when involved in child welfare pro-
14 ceedings before or after the enactment of this Act,
15 including the rate at which the parental rights of the
16 individuals are terminated.

17 (5) An analysis of the specific revisions made to
18 the 2015 technical assistance referred to in section
19 5(a)(1) of this Act in accordance with the require-
20 ments of section 5 of this Act, and a list of all con-
21 sultation entities that were consulted in the revision
22 process.

23 (6) An analysis of how State agencies admin-
24 istering or supervising the administration of a plan
25 developed or approved under part B or E of title IV

1 of the Social Security Act, as applicable, Indian
2 tribes or tribal organizations, and the highest court
3 of each State have used the technical assistance re-
4 vised as required by section 5 of this Act.

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