

115TH CONGRESS
1ST SESSION

S. 1964

To encourage kinship guardianship placements and support payment rate equity for such placements, to improve oversight of State child welfare programs funded under the Social Security Act, to strengthen national data on child fatalities from maltreatment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2017

Mr. HATCH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To encourage kinship guardianship placements and support payment rate equity for such placements, to improve oversight of State child welfare programs funded under the Social Security Act, to strengthen national data on child fatalities from maltreatment, and for other purposes.

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 “Child Welfare Over-
5 sight and Accountability Act of 2017”.

1 **SEC. 2. DE-LINKAGE OF ELIGIBILITY FOR KINSHIP GUARD-**
2 **IANSHIP ASSISTANCE FROM AFDC INCOME**
3 **LIMITATIONS AND DECREASE IN MINIMUM**
4 **NUMBER OF MONTHS REQUIRED TO BE RE-**
5 **SIDING IN A RELATIVE HOME BEFORE BEING**
6 **ELIGIBLE FOR ASSISTANCE.**

7 (a) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIAN-
8 SHIP ASSISTANCE PAYMENT.—Section 473(d)(3)(A)(i)(II)
9 of the Social Security Act (42 U.S.C. 673(d)(3)(A)(i)(II))
10 is amended by striking “eligible for foster care mainte-
11 nance payments under section 472 while residing for at
12 least 6” and inserting “residing for at least 3”.

13 (b) CONFORMING AMENDMENT TO LIMITATION ON
14 AMOUNT OF PAYMENT.—Section 473(d)(2) of such Act
15 (42 U.S.C. 673(d)(2)) is amended by striking “foster care
16 maintenance payment” and all that follows through the
17 period and inserting “highest foster care maintenance
18 payment which could have been paid on behalf of the child
19 if the child were eligible for foster care maintenance pay-
20 ments under section 472.”.

21 (c) APPLICATION OF FOSTER AND ADOPTIVE PAR-
22 ENT RECORDS CHECKS REQUIREMENTS.—Section
23 471(a)(20)(C) of such Act (42 U.S.C. 671(a)(20)(C)) is
24 amended—

25 (1) by striking “criminal records checks, includ-
26 ing fingerprint-based checks of national crime infor-

1 mation databases (as defined in section 534(e)(3)(A)
 2 of title 28, United States Code),” and inserting
 3 “checks described in subparagraph (A)”;

4 (2) by inserting “, including procedures that re-
 5 quire that a child shall not be placed in the home
 6 of any relative guardian if any such checks reveal in-
 7 formation which would prohibit a prospective foster
 8 or adoptive parent from being finally approved for
 9 placement of a child on whose behalf foster care
 10 maintenance payments or adoption assistance pay-
 11 ments are to be made under the State plan under
 12 this part” after “under this part”.

13 **SEC. 3. REINVESTING PENALTIES TO IMPROVE SUCCESS-**
 14 **FUL COMPLETION OF REVIEWS OF CHILD**
 15 **AND FAMILY SERVICES PROGRAMS AND OF**
 16 **FOSTER CARE AND ADOPTION ASSISTANCE**
 17 **PROGRAM IMPROVEMENT PLANS.**

18 Section 1123A(b)(4) of the Social Security Act (42
 19 U.S.C. 1320a–2a(b)(4)) is amended—

20 (1) in subparagraph (A), by striking “, ap-
 21 proved by the Secretary, designed to end the failure
 22 to so conform” and inserting “designed to end the
 23 failure to so conform that is developed with and ap-
 24 proved by the Secretary, and which, in addition to
 25 specifying all of the ways in which the State pro-

1 gram was determined to have failed to conform,
 2 identifies priority areas that, if successfully com-
 3 pleted under the corrective action plan, will be con-
 4 sidered to have brought the State into substantial
 5 conformity”;

6 (2) in subparagraph (C), by striking “suspend”
 7 and all that follows through the semicolon and in-
 8 serting “, in lieu of withholding of any Federal
 9 matching funds under this section while such a cor-
 10 rective action plan is in effect, require that the State
 11 spend an amount that is not less than the amount
 12 of the Federal matching funds that will be withheld
 13 if the State fails to successfully complete the correc-
 14 tive action plan on the priority areas identified in
 15 the corrective action plan;” and

16 (3) in subparagraph (D), by striking “if the
 17 failure to so conform is ended by successful comple-
 18 tion of” and inserting “and spending requirement if
 19 the failure to so conform is ended by successful com-
 20 pletion of the identified priority areas of”.

21 **SEC. 4. STATE CHILD WELFARE CASELOAD AND WORKLOAD**
 22 **STANDARDS.**

23 (a) IN GENERAL.—Section 471(a)(22) of the Social
 24 Security Act (42 U.S.C. 671(a)(22)) is amended—

1 (1) by striking “that, not later than” and in-
2 serting “that—

3 “(A) not later than”;

4 (2) by adding “and” after the semicolon; and

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

6 “(B)(i) not later than January 1, 2020,
7 the State, in consultation with the Secretary
8 and national organizations with expertise in
9 caseload and workload issues, and based on the
10 most recent research, best practices, and such
11 other data or information relating to caseload
12 and workload issues as the State and Secretary
13 determine appropriate, shall develop and imple-
14 ment caseload and workload standards for case
15 workers for children on whose behalf aid, serv-
16 ices, or assistance may be provided under part
17 B or this part that are based on the unique
18 needs and circumstances of the State and that
19 establish minimum standards with respect to—

20 “(I) the number of active initial as-
21 sessments or investigations per month per
22 caseworker;

23 “(II) the number of active, ongoing
24 cases per caseworker and the rate of new

1 families assigned to a caseworker for every
2 open family case;

3 “(III) the number of combined assess-
4 ment or investigation and ongoing cases
5 per caseworker;

6 “(IV) the number of families per case-
7 worker being provided intensive family-cen-
8 tered or preservation services;

9 “(V) the number of cases per case-
10 worker that involve children with intensive
11 caseworker or supervision needs; and

12 “(VI) supervisor to caseworker ratios;
13 and

14 “(ii) not later than January 1, 2025, and
15 every 5 years thereafter, the State shall update
16 the standards developed and implemented under
17 clause (i), in consultation with the Secretary
18 and national organizations with expertise in
19 caseload and workload issues, and based on the
20 most recent research, best practices, and such
21 other data or information relating to caseload
22 and workload issues as the State and Secretary
23 determine appropriate.”.

24 (b) APPLICATION TO INDIAN TRIBES AND TRIBAL
25 ORGANIZATIONS.—Section 471(a)(22)(B) of the Social

1 Security Act (42 U.S.C. 671(a)(22)(B)), as added by sub-
2 section (a), shall apply to—

3 (1) Indian tribes, tribal organizations, or tribal
4 consortiums that have a plan approved under section
5 471(a) of the Social Security Act (42 U.S.C. 671(a))
6 in accordance with section 479B of such Act (42
7 U.S.C. 679c); and

8 (2) Indian tribes, tribal organizations, or tribal
9 consortiums that have a cooperative agreement or
10 contract with a State for the administration or pay-
11 ment of funds under part E of title IV of the Social
12 Security Act (42 U.S.C. 670 et seq.).

13 **SEC. 5. TRAINING CHILD WELFARE WORKERS.**

14 (a) IN GENERAL.—Section 474(a)(3)(A) of the Social
15 Security Act (42 U.S.C. 674(a)(3)(A)) is amended—

16 (1) by striking “75 per centum of so much of
17 such expenditures as are for the training” and in-
18 serting “50 percent of so much of such expenditures
19 as are for the short- and long-term training”; and

20 (2) by inserting “or of personnel employed or
21 preparing for employment by State-licensed or State-
22 approved child welfare agencies, without regard to
23 whether such personnel provide or will provide serv-
24 ices to foster or adoptive children on behalf of whom
25 foster care maintenance payments or adoption as-

1 sistance payments may be made under this part, in
2 areas directly related to the responsibilities of such
3 personnel, including making a case plan, carrying
4 out case reviews, engaging families, connecting fami-
5 lies with appropriate substance abuse treatment,
6 preparing for judicial proceedings, determining eligi-
7 bility, treating child behaviors or other problems,
8 carrying out or participating with child abuse and
9 neglect investigations and other responses, coordi-
10 nating and connecting children with health services,
11 helping children access psycho-social services as
12 needed, providing post-permanency services, pro-
13 viding child welfare services in a trauma-informed
14 manner, working in multidisciplinary teams, and col-
15 laborating with law enforcement,” after “subdivi-
16 sion,”.

17 (b) CONFORMING AMENDMENT.—Section
18 474(a)(3)(B) of such Act (42 U.S.C. 674(a)(3)(B)) is
19 amended by striking “, the members of the staff of State-
20 licensed or State-approved child care institutions providing
21 care, or State-licensed or State-approved child welfare
22 agencies providing services,” and inserting “or the mem-
23 bers of the staff of State-licensed or State-approved child
24 care institutions providing care”.

1 **SEC. 6. STRENGTHENING NATIONAL DATA ON CHILD FA-**
2 **TALITIES FROM MALTREATMENT.**

3 (a) IV-B REQUIREMENT TO ANNUALLY REVIEW
4 CHILD FATALITIES FROM MALTREATMENT.—Section
5 422(b)(19) of the Social Security Act (42 U.S.C.
6 622(b)(19)) is amended—

7 (1) by striking “contain a description” and in-
8 serting “contain—

9 “(A) a description”;

10 (2) by striking the period at the end and insert-
11 ing a semicolon; and

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

13 “(B) assurances that the State shall—

14 “(i) annually engage in a multidisci-
15 plinary review of all child fatalities from
16 maltreatment in the State that occurred
17 during the previous year in accordance
18 with the requirements of section 429A;
19 and”.

20 (b) ANNUAL REVIEW REQUIREMENTS.—Subpart 1 of
21 part B of title IV of the Social Security Act (42 U.S.C.
22 621 et seq.) is amended by adding at the end the fol-
23 lowing:

1 **“SEC. 429A. ANNUAL REVIEW OF CHILD FATALITIES FROM**
2 **MALTREATMENT.**

3 “(a) REQUIREMENTS.—In order to satisfy the re-
4 quirements of section 422(b)(19)(B)(i), a State shall re-
5 quire the State’s multidisciplinary child death review team
6 or other multidisciplinary team established by the State
7 that is comprised of child welfare workers, child protective
8 services workers, prosecutors, law enforcement, coroners
9 or medical examiners, public health care providers, pedia-
10 tricians with expertise in child maltreatment and the child
11 welfare system, substance abuse treatment providers, and
12 other individuals integral to the child welfare system (in
13 this section referred to as the ‘review team’) to annually
14 review all child fatalities from maltreatment in the State
15 that occurred during the most recently ended fiscal year
16 and for which all administrative or judicial review is com-
17 plete or no longer timely. Any child fatality from maltreat-
18 ment in the State that occurred during the most recently
19 ended fiscal year but for which administrative or judicial
20 review is not complete or remains timely shall be reviewed
21 by the review team in the first annual review period that
22 occurs after all administrative or judicial review is com-
23 plete or no longer timely.

24 “(b) REPORT AND RECOMMENDATIONS.—The review
25 team shall—

1 “(1) for each child fatality from maltreatment
2 in the State subject to review, make findings regard-
3 ing the causes of child’s fatality and other factors
4 that impacted the child’s fatality, the circumstances
5 of the fatality, the characteristics of the victim, the
6 perpetrators, including their relationship to the
7 child, and the parents or guardians of the child,
8 whether there were previous familial interactions
9 with child protective services and the outcomes of
10 those interactions, whether the child had any sib-
11 lings and how many, and the social services, public
12 cash or in-kind assistance, health (including mental
13 health) services, substance abuse treatment, or other
14 public or private services provided to or on behalf of
15 the child prior to the child’s death;

16 “(2) submit all findings and data made in ac-
17 cordance with paragraph (1) to the Child Death Re-
18 view Case Reporting System (in this section referred
19 to as the ‘CDR Reporting System’) operated by the
20 National Center for Fatality Review and Prevention;

21 “(3) based on the findings made in accordance
22 with paragraph (1), develop recommendations for
23 preventing future child fatalities from maltreatment;
24 and

1 “(4) submit an annual report to the State Gov-
2 ernor, the State Legislature, and, if the incident re-
3 porting threshold established under subsection (c) is
4 met, to the Secretary, that contains the findings and
5 data submitted to the CDR Reporting System under
6 subparagraph (2) (de-identified) and the rec-
7 ommendations developed under paragraph (3).

8 “(c) ANNUAL INCIDENT REPORTING THRESHOLD.—

9 “(1) STATE-SPECIFIC THRESHOLDS.—The Sec-
10 retary annually shall establish a national reporting
11 incident threshold for each State for purposes of
12 protecting the privacy of families and other living in-
13 dividuals whose information is part of the findings
14 and data submitted under subsection (b)(2) and the
15 annual report to the State Governor and State Leg-
16 islature required under subsection (b)(4). In estab-
17 lishing such threshold for a State, the Secretary
18 shall ensure that the reporting threshold is sufficient
19 to prevent the re-identification of living individuals
20 who could be identified in the information contained
21 in the annual report required under subsection
22 (b)(4).

23 “(2) APPLICATION.—If the number of child fa-
24 talities from maltreatment in a State in a fiscal year
25 is below the reporting threshold established for the

1 State for the fiscal year, the State shall not submit
2 the annual report required under subsection (b)(4)
3 to the Secretary but shall submit to the Secretary—

4 “(A) the findings and data submitted to
5 the CDR Reporting System under subsection
6 (b)(2) for the purpose of making such findings
7 and data accessible as a public use data set on
8 the national website required under subsection
9 (g) after redacting any personal identifying in-
10 formation; and

11 “(B) the recommendations developed under
12 subsection (b)(3).

13 “(d) FUNDING.—Amounts expended by a State dur-
14 ing each quarter beginning after December 31, 2017, for
15 administrative costs (as defined in section 422(c)(1)) to
16 carry out this section and section 422(b)(19)(B) shall be
17 deemed to be amounts expended during such quarter as
18 found necessary by the Secretary for the proper and effi-
19 cient administration of the State plan under part E for
20 purposes of Federal matching payments under section
21 474(a)(3)(E).

22 “(e) INDIAN TRIBES, TRIBAL ORGANIZATIONS.—The
23 Secretary, in consultation with the Assistant Secretary-In-
24 dian Affairs of the Bureau of Indian Affairs of the De-
25 partment of Interior and tribal child welfare organiza-

1 tions, shall determine how and the extent to which the re-
2 quirements of this section shall apply to Indian tribes and
3 tribal organizations (as defined in section 4 of the Indian
4 Self-Determination and Education Assistance Act (25
5 U.S.C. 450b).

6 “(f) NONAPPLICATION.—The limitations on pay-
7 ments for administrative costs under sections 424(e) and
8 472(i) shall not apply to State expenditures made to carry
9 out this section.

10 “(g) NATIONAL WEBSITE.—

11 “(1) IN GENERAL.—The Secretary, in coordina-
12 tion with the National Center for Fatality Review
13 and Prevention, shall publish on a website that is
14 available to the public and maintained and updated
15 at least annually—

16 “(A) each annual report submitted to the
17 Secretary under subsection (b)(4); and

18 “(B) the findings and data submitted to
19 the CDR Reporting System under subsection
20 (b)(2) (with any personal identifying informa-
21 tion or information that identifies the submit-
22 ting State redacted) in a manner that is acces-
23 sible as a public use data set for purposes of re-
24 search to identify risk factors and to prevent
25 future deaths of children from maltreatment.

1 “(2) NOTICE TO CONGRESS.—The Secretary
2 shall notify Congress when information on the
3 website required under paragraph (1) is updated.”.

4 (c) CONFORMING AMENDMENT.—Section 425 of the
5 Social Security Act (42 U.S.C. 625) is amended by strik-
6 ing “426, 427, and 429” and inserting “422(b)(19)(B),
7 426, 427, 429, and 429A”.

8 **SEC. 7. DEVELOPMENT OF NATIONAL DEFINITION STAND-**
9 **ARDS RELATING TO CHILD FATALITIES FROM**
10 **MALTREATMENT.**

11 (a) PROMULGATION OF NATIONAL DEFINITION
12 STANDARDS.—Not later than 18 months after the date
13 of enactment of this Act, the Secretary of Health and
14 Human Services (in this section referred to as the “Sec-
15 retary”) shall promulgate proposed regulations estab-
16 lishing a set of national definition standards relating to
17 child fatalities from maltreatment that States shall use to
18 report data to the National Child Abuse and Neglect Data
19 System established and maintained in accordance with
20 section 103 of the Child Abuse Prevention and Treatment
21 Act (42 U.S.C. 5104) and, not later than 6 months after
22 the date on which the public comment period on the pro-
23 posed regulations closes, shall issue final regulations es-
24 tablishing such standards.

1 (b) REQUIREMENTS.—In promulgating the regula-
2 tions under subsection (a), the Secretary shall consult with
3 representatives of—

4 (1) State and county officials responsible for
5 administering the State plans under parts B and E
6 of title IV of the Social Security Act;

7 (2) child welfare professionals with field experi-
8 ence;

9 (3) child welfare researchers;

10 (4) child development professionals;

11 (5) mental health professionals;

12 (6) emergency medicine physicians;

13 (7) child abuse pediatricians, as certified by the
14 American Board of Pediatrics, who specialize in
15 treating victims of child abuse;

16 (8) forensic pathologists;

17 (9) public health administration;

18 (10) public health researchers;

19 (11) law enforcement;

20 (12) a representative from the National Center
21 for Fatality Review and Prevention; and

22 (13) such other organizations or entities as the
23 Secretary determines appropriate.

24 (c) CONFORMING AMENDMENTS.—

25 (1) CAPTA.—

1 (A) NATIONAL CHILD ABUSE AND NE-
2 GLECT DATA SYSTEM.—Section 103(e)(1)(C) of
3 the Child Abuse Prevention and Treatment Act
4 (42 U.S.C. 5104(c)(1)(C)) is amended—

5 (i) in clause (iii), by striking “and”
6 after the semicolon;

7 (ii) in clause (iv), by adding “and”
8 after the semicolon; and

9 (iii) by inserting after clause (iv), the
10 following:

11 “(v) information on child fatalities
12 from maltreatment in accordance with the
13 set of national definition standards pro-
14 mulgated under section 7(a) of the Child
15 Welfare Oversight and Accountability Act
16 of 2017;”.

17 (B) ANNUAL STATE DATA REPORTS.—Sec-
18 tion 106(d) of the Child Abuse Prevention and
19 Treatment Act (42 U.S.C. 5106a(d)) is amend-
20 ed by adding at the end the following:

21 “(19) The number of child fatalities from mal-
22 treatment and related information required to be re-
23 ported in accordance with the set of national defini-
24 tion standards promulgated under section 7(a) of

1 the Child Welfare Oversight and Accountability Act
2 of 2017.”.

3 (2) SOCIAL SECURITY ACT.—

4 (A) IV-B PLAN.—Section 422(b)(19) of
5 the Social Security Act (42 U.S.C. 622(b)(19)),
6 as amended by section 6(a), is further amended
7 by adding at the end the following:

8 “(ii) report information on child mal-
9 treatment deaths required by Federal law
10 in accordance with the set of national defi-
11 nition standards promulgated under sec-
12 tion 7(a) of the Child Welfare Oversight
13 and Accountability Act of 2017.”.

14 (B) ANNUAL REVIEW REQUIREMENTS.—
15 Section 429A of the Social Security Act, as
16 added by section 6(b), is amended by adding at
17 the end the following:

18 “(h) APPLICATION OF NATIONAL DEFINITION
19 STANDARDS.—The review team shall use the set of na-
20 tional definition standards promulgated under section 7(a)
21 of the Child Welfare Oversight and Accountability Act of
22 2017 to make and submit findings and data to the CDR
23 Reporting System and to develop the recommendations re-
24 quired under subsection (b)(3).”.

1 **SEC. 8. ADDITIONAL REQUIREMENTS FOR THE ANNUAL RE-**
2 **PORT TO CONGRESS BASED ON AFCARS AND**
3 **OTHER DATA.**

4 (a) PROVIDER-SPECIFIC CHILD OUTCOMES.—Section
5 479A(a) of the Social Security Act (42 U.S.C. 679b(a))
6 is amended—

7 (1) in paragraph (6)(C), by striking “and”
8 after the semicolon;

9 (2) in paragraph (7)(B), by striking the period
10 at the end and inserting a semicolon; and

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

12 “(8) develop a set of provider-specific child out-
13 come measures (including with respect to child fa-
14 talities, child fatalities from maltreatment, maltreat-
15 ment in care, recurrence of maltreatment within 6
16 months, exits from foster care by reason for the exit
17 (adoption, guardianship, reunification, or emanci-
18 pation), time to reunification, reentry rates, and av-
19 erage number of placements) that can be used to as-
20 sess the performance of foster care providers, as de-
21 fined in subsection (e), in providing services to chil-
22 dren under this part or part B;

23 “(9) prescribe, not later than October 1, 2019,
24 such regulations as may be necessary to ensure that
25 States—

1 “(A) provide to the Secretary the data nec-
2 essary for the Secretary to assess the perform-
3 ance of States and foster care providers (as so
4 defined) with respect to the outcome measures
5 developed under paragraph (8), as a condition
6 of the State receiving funds under this part;

7 “(B) include with the data submitted to
8 the Secretary under subparagraph (A) for each
9 foster care provider (as so defined), information
10 as to whether the provider is a for-profit or not-
11 for-profit entity; and

12 “(C) review and consider the performance
13 of each foster care provider (as so defined) with
14 respect to such outcome measures prior to en-
15 tering into or renewing any agreement with the
16 provider that relates to the provision of services
17 to children under this part or part B; and

18 “(10) include in the report submitted pursuant
19 to paragraph (5) for fiscal year 2021 or any suc-
20 ceeding fiscal year, State-by-State data with respect
21 to the outcome measures developed under paragraph
22 (8) and the data and information submitted under
23 paragraph (9).”.

24 (b) PUBLIC AVAILABILITY OF STATE-SPECIFIC IN-
25 FORMATION.—Section 479A of the Social Security Act (42

1 U.S.C. 679b) is amended by adding at the end the fol-
2 lowing:

3 “(c) PUBLIC AVAILABILITY.—The Secretary shall
4 publish, in a manner that is accessible as a public use data
5 set for purposes of research, the data, ratings, and per-
6 formance measures collected and determined under this
7 section with respect to each State on a website that is
8 available to the public and maintained and updated at
9 least annually.”.

10 (c) APPLICATION TO INDIAN TRIBES AND TRIBAL
11 ORGANIZATIONS.—Section 479A of such Act (42 U.S.C.
12 679b), as amended by subsection (b), is further amended
13 by adding at the end the following:

14 “(d) APPLICATION TO INDIAN TRIBES AND TRIBAL
15 ORGANIZATIONS.—The data collection and outcome meas-
16 ures requirements of this section shall apply to Indian
17 tribes, tribal organization, or tribal consortiums that have
18 a plan approved under section 471(a) in accordance with
19 section 479B, in the same manner as such requirements
20 apply to a State under this part.”.

21 (d) DEFINITION OF FOSTER CARE PROVIDER.—Sec-
22 tion 479A of such Act (42 U.S.C. 679b), as amended by
23 subsections (b) and (c), is further amended by adding at
24 the end the following:

1 “(e) DEFINITION OF FOSTER CARE PROVIDER.—For
 2 purposes of paragraphs (8) and (9) of subsection (a), the
 3 term ‘foster care provider’ means any entity, other than
 4 a foster family home, that receives funds from a State
 5 under this part or part B for the provision of placement
 6 or supervision services for any child in foster care under
 7 the responsibility of the State.”.

8 **SEC. 9. PRIVATE RIGHT OF ACTION FOR FAILURE TO COM-**
 9 **PLY WITH CASE PLAN AND CASE SYSTEM RE-**
 10 **VIEW REQUIREMENTS.**

11 (a) PRIVATE RIGHT OF ACTION.—Section 475A of
 12 the Social Security Act (42 U.S.C. 675a) is amended by
 13 adding at the end the following:

14 “(c) PRIVATE RIGHT OF ACTION.—

15 “(1) IN GENERAL.—An individual who is or
 16 was a child in foster care under the responsibility of
 17 the State may obtain appropriate relief with regard
 18 to a failure to comply with a case plan requirement
 19 in section 475(1) or a failure to comply with a case
 20 review system requirement in section 475(5) that
 21 applies or applied to the individual while the child
 22 was such foster care not later than 5 years after the
 23 date on which the individual exits foster care by
 24 bringing a civil action in an appropriate district
 25 court of the United States. In the case of an indi-

1 vidual with more than 1 period in foster care under
2 the responsibility of the State, each such period shall
3 be treated separately for purposes of applying the 5-
4 year deadline under the preceding sentence.

5 “(2) EXHAUSTION OF ADMINISTRATIVE REM-
6 EDIES.—An action under this subsection may be
7 commenced, and relief may be granted, only after
8 the individual commencing the action has sought or
9 exhausted any available administrative remedies.

10 “(3) WAIVER OF STATE SOVEREIGNTY.—

11 “(A) IN GENERAL.—As a condition of a
12 State receiving funds under this part, the State
13 shall voluntarily and knowingly agree that—

14 “(i) an action under this subsection
15 may be maintained against, among others,
16 a party that is a State governmental enti-
17 ty; and

18 “(ii) relief in an action under this
19 subsection may include money damages
20 even if the defendant is such a govern-
21 mental entity.

22 “(B) STATE GOVERNMENTAL ENTITY DE-
23 FINED.—In this subsection, the term ‘State
24 governmental entity’ means a State, a local gov-
25 ernment within a State, and any agency or

1 other governmental unit or subdivision of a
2 State or of such a local government.

3 “(4) RELIEF.—In an action under this sub-
4 section, the court shall grant—

5 “(A) all necessary equitable and legal re-
6 lief, including, where appropriate, declaratory
7 relief and compensatory and punitive damages,
8 to prevent the occurrence, continuance, or rep-
9 etition of the designated failure and to com-
10 pensate for losses resulting from the designated
11 failure; and

12 “(B) to a prevailing plaintiff, reasonable
13 attorneys’ fees and litigation expenses as part
14 of the costs.”.

15 (b) RULE OF CONSTRUCTION.—The private right of
16 action established under section 475A(c) of the Social Se-
17 curity Act with regard to a failure to comply with a case
18 plan requirement in section 475(1) of such Act or a failure
19 to comply with a case review system requirement in section
20 475(5) of such Act, as added by subsection (a) of this sec-
21 tion, shall not be construed as an expression of congres-
22 sional intent with respect to the creation of, or prohibition
23 of, a private right of action with respect to a failure to
24 comply with any other provision of title IV of Social Secu-
25 rity Act.

1 **SEC. 10. TRANSPARENCY IN CONTRACTING WITH PRIVATE**
2 **CHILD WELFARE SERVICE PROVIDERS.**

3 Section 422(b) of the Social Security Act (42 U.S.C.
4 622(b)), as amended by section 7(c)(2)(A), is amended—

5 (1) in paragraph (18), by striking “and” after
6 the semicolon;

7 (2) in paragraph (19), by striking the period at
8 the end and inserting “; and”; and

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

10 “(20) provide that the State shall make publicly
11 available on a website maintained by the State, in
12 accordance with such procedures as are necessary to
13 maintain the confidentiality and privacy of children
14 and families provided assistance under this part or
15 part E—

16 “(A) any agreement with a private foster
17 care provider (as defined in section 479A(e))
18 that relates to the provision of services to chil-
19 dren under this part or part E; and

20 “(B) with respect to each such provider
21 with such an agreement, information as to
22 whether the provider is a for-profit or not-for-
23 profit entity.”.

1 **SEC. 11. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in subsections
3 (b), (c), and (d), this Act and the amendments made by
4 this Act take effect on January 1, 2018.

5 (b) REINVESTMENT OF PENALTIES.—The amend-
6 ments made by section 3 take effect on October 1, 2018,
7 and shall apply to conformity reviews conducted with re-
8 spect to fiscal years beginning with fiscal year 2019.

9 (c) PRIVATE RIGHT OF ACTION.—The amendment
10 made by section 9(a) shall take effect on January 1, 2019.

11 (d) DELAY PERMITTED IF STATE LEGISLATION RE-
12 QUIRED.—In the case of a State plan approved under part
13 B or E of title IV of the Social Security Act which the
14 Secretary of Health and Human Services determines re-
15 quires State legislation (other than legislation appro-
16 priating funds) in order for the plan to meet the additional
17 requirements imposed by this Act, the State plan shall not
18 be regarded as failing to comply with the requirements of
19 such part solely on the basis of the failure of the plan
20 to meet such additional requirements before the first day
21 of the first calendar quarter beginning after the close of
22 the first regular session of the State legislature that be-
23 gins after the date of enactment of this section. For pur-
24 poses of the previous sentence, in the case of a State that
25 has a 2-year legislative session, each year of such session

- 1 shall be deemed to be a separate regular session of the
- 2 State legislature.

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