

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
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INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-B and Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations.

SUBJECT: **NEW LEGISLATION** – The Safe and Timely Interstate Placement of Foster Children Act of 2006 (Public Law (P.L.) 109-239).

REFERENCES: Titles IV-B and IV-E of the Social Security Act; P.L. 109-239.

PURPOSE: This is to inform State, Tribal and Territorial IV-B and IV-E Agencies of the enactment of the Safe and Timely Interstate Placement of Foster Children Act of 2006 and provide basic information about the provisions in the law.

INFORMATION: The President signed the Safe and Timely Interstate Placement of Foster Children Act of 2006, P.L. 109-239 into law on July 3, 2006. The law amends Titles IV-B and IV-E of the Social Security Act (the Act), encourages States to improve protections for children and holds them accountable for the safe and timely placement of children across State lines.

Home Study Related Provisions

Title IV-E Foster and Adoptive Home Study Requirements. The law adds two new Title IV-E State plan requirements at section 471(a)(25) and (26) to the Act.

- Under section 471(a)(25), a State is required to have in effect a procedure for the orderly and timely interstate

placement of children. Such procedures that are implemented consistent with an Interstate Compact and that meet the timely home study requirements that follow at section 471(a)(26) are considered to satisfy this provision.

- Under section 471(a)(26), a State is required to complete and report on foster and adoptive home studies requested by another State within 60 days. An exception to the 60-day requirement is provided (but only until 9/30/08) if the State's failure to complete the home study within 60 days is due to circumstances beyond the State's control (e.g., delays in receipt of Federal agency background checks). This exception gives the State 15 more days to complete and report on the home study.

The State that requested the home study must accept the completed home study unless, within 14 days of receiving the report, the State determines that reliance on the report would be contrary to the child's welfare.

The parts of the home study involving education and training of prospective foster and adoptive parents do not have to be completed within the same 60- (or 75-) day timeframe. Further, States are permitted to contract with a private agency to conduct the home study.

Timely Foster and Adoptive Home Study Incentives under Title IV-E. The law adds a new section to the Act at section 473B, entitled "The Timely Interstate Home Study Incentive Payments." This is an incentive program to encourage States to complete timely interstate home studies. Key points include the following:

- \$10 million is authorized for each of fiscal years 2007-2010 for the U.S. Department of Health and Human Services (HHS) to award to a State an incentive payment of \$1,500 for each interstate home study completed within 30 days of the request. Funding of the incentive program is subject to annual appropriations. If the overall amount appropriated is too small to cover all payments, payments will be prorated.
- Incentives awarded to a State may be spent on any service allowed under Titles IV-B and IV-E.

- To earn an incentive, a State must provide data to HHS on interstate home studies that include (1) the total number of interstate home studies requested by the State identified by State, (2) the total number of timely interstate home studies completed by the State identified by the requesting State, and (3) other information the HHS Secretary may require.
- The incentive program is repealed as of October 1, 2010.

Other Interstate Placement Considerations

Use of Cross Jurisdictional Resources. The law modifies the Title IV-B State plan requirement at section 422(b)(12) of the Act to require States to “make” effective use of cross jurisdictional resources (rather than the existing requirement to develop plans for such) and “eliminate legal barriers” to timely adoptions.

Reasonable Efforts. The law modifies the existing Title IV-E State plan provisions related to reasonable efforts at section 471(a)(15) of the Act to specifically require a State to:

- Consider interstate placements in permanency planning decisions when appropriate (section 471(a)(15)(C));
- Consider in-State and out-of-State permanent placement options at permanency hearings (section 471(a)(15)(E)(i)); and
- Identify appropriate in-State and out-of-State placements when using concurrent planning (section 471(a)(15)(F)).

Permanency Hearings. The law requires a State to consider in-State and out-of-State placement options in permanency hearings, and if a child is already in an out-of-State placement, the hearing must determine if the placement continues to be appropriate and in the child’s best interests (section 475(5)(C)).

Caseworker Visits. The law increases the frequency of required caseworker visits from every 12 months to every 6 months for children in out-of-State foster care placements, and allows for a private agency under contract with either State to perform those visits (section 475(5)(A)(ii)).

Court Improvement Provisions

Court Improvement Amendments. The law amends section 438(a) and (b) of the Act to include specific requirements for the highest State court participating in the Court Improvement Program as follows:

- Under section 438(a)(1)(E), the law requires State courts that receive the original court improvement grant to assess their effectiveness in expediting interstate placements, and that courts in different States cooperate in the sharing of information. Courts are also authorized to obtain information and testimony from agencies and parties in other States without requiring interstate travel by those parties. The law also permits the participation of parents, children and other necessary parties involved in interstate placement without requiring interstate travel. This applies only to the original court improvement grant at section 438(a)(1).
- Under section 438(b)(1), State courts must ensure that foster parents, pre-adoptive parents, and relative caregivers are notified of any proceedings held with respect to a child in foster care. This applies to any of the three court improvement grants under section 438(a).

Additional Provisions

Title IV-B and IV-E Case Plan Amendments. The law modifies the existing definition of “case plan” in section 475(1) of the Act to:

- Require the case plans to include the most recent information available regarding the health and education records of the child (rather than the existing requirement to include such information to the extent available) (section 475(1)(C)); and
- Clarify that adoption and other permanency plan recruitment efforts include the use of State, regional and national adoption exchanges and electronic exchange systems to facilitate orderly and timely in-State and interstate placements (section 475(1)(E)).

Title IV-B and IV-E Case Review System Amendments. The law amends the definition for the “case review system” in section 475(5) of the Act in several areas and requires a State to:

- Supply a copy of the child’s health and education record to the foster parent or foster care provider at the time of placement and to provide it at no cost to the child at the time the child is emancipated from foster care (section 475(5)(D)); and
- Provide foster caregivers the “right” to be heard in “any proceeding”, in lieu of the existing requirement for an opportunity to be heard in any review or hearing (section 475(5)(G)).

Report to Congress Requirement. Section 4(a)(2) of P.L. 109-239 requires HHS to report to Congress one year after enactment on: (1) how often States need the 15-day extension to complete home studies; (2) why the extension was needed; (3) if the extension led to a resolution of the problem that prevented the home study from being done in 60 days; and (4) the actions taken by States and Federal agencies to resolve the issues that led to a need for an extension.

EFFECTIVE DATE: October 1, 2006, unless State legislation is required to implement the new or amended title IV-B/IV-E State plan requirements, in which case a delay is permitted based on the State’s next legislative session.

INQUIRIES: Regional Administrators, ACF Regions I - X.

/s/

Joan E. Ohl
Commissioner
Administration on Children,
Youth and Families

Attachment: P.L. 109-239, Safe and Timely Interstate Placement of Foster Children Act of 2006.