

The following is the text of the Family First Transition Act in HR 1865, the Further Consolidated Appropriations Act, 2020. More information about this legislation is available on the Child Welfare Evidence & Innovation Blog at: www.childwelfareevidence.org

SEC. 602. ADDRESSING EXPIRATION OF CHILD WELFARE DEMONSTRATION PROJECTS AND SUPPORTING FAMILY FIRST IMPLEMENTATION.

(a) SHORT TITLE.— This section may be cited as the “Family First Transition Act”.

(b) EVIDENCE STANDARD TRANSITION.—

(1) TEMPORARY SUSPENSION OF REQUIREMENT THAT AT LEAST 50 PERCENT OF A STATE’S REIMBURSEMENT FOR PREVENTION AND FAMILY SERVICES AND PROGRAMS BE FOR PROGRAMS AND SERVICES THAT MEET THE WELL-SUPPORTED PRACTICE REQUIREMENT.—With respect to quarters in fiscal years 2020 and 2021, section 474(a)(6)(A) of the Social Security Act (42 U.S.C. 674(a)(6)(A)) shall be applied without regard to clause (ii) of such section.

(2) SUPPORTED PRACTICES TEMPORARILY TREATED AS WELL-SUPPORTED PRACTICES.—With respect to quarters in fiscal years 2022 and 2023, practices that meet the criteria specified for supported practices in section 471(e)(4)(C) of the Social Security Act (42 U.S.C. 671(e)(4)(C)) shall be considered well-supported practices for purposes of section 474(a)(6)(A)(ii) of such Act (42 U.S.C. 17 674(a)(6)(A)(ii)).

(c) ENHANCED FUNDING FOR TRANSITION ACTIVITIES.—

(1) TRANSITION FUNDING.—

(A) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services (in this section referred to as the “Secretary”) to carry out this subsection \$500,000,000 for fiscal year 2020, which shall remain available through fiscal year 2021.

(B) DISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—The Secretary shall allot the amount appropriated by subparagraph (A) of this paragraph in accordance with section 423 of the Social Security Act 9 (42 U.S.C. 623), and shall pay each State to which an allotment is so made, the total amount so allotted, subject to clause (ii) of this subparagraph.

(ii) RESERVATION OF FUNDS FOR INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Before applying clause (i) of this subparagraph, the Secretary shall reserve 3 percent of the amount appropriated by subparagraph (A) of this paragraph for allotment to the Indian tribes and tribal organizations with a plan approved under subpart 1 of part B of title IV of the Social Security Act, based on each tribe or tribal organization’s share of the total tribal child population among all such tribes and tribal organizations.

(2) FUNDING CERTAINTY FOR STATES WITH EXPIRING DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for payment to each State that was operating a demonstration project approved under section 1130 of the Social Security Act on September 30, 2019, for each fiscal year specified in subparagraph (B) of this paragraph, an amount equal to the amount (if any) by which—

(i)

(I) the applicable percentage for the fiscal year so specified of the maximum capped allocation due to the State or sub-State jurisdiction for fiscal year 2019 for foster care maintenance, administration, or training costs, under the demonstration project, as specified in section 4.3 of the State waiver terms and conditions document capped allocation payment table in effect on August 31, 2019; or

(II) if the terms and conditions do not specify a maximum amount payable for fiscal year 2019 for the State or sub-State jurisdiction (due to the use of a comparison jurisdiction to ensure cost neutrality), the final cost neutrality limit for the State or sub-State jurisdiction for fiscal year 2018, as most recently reported by the State or sub-State jurisdiction as of September 30, 2019, for foster care maintenance, administration, or training costs under the demonstration project that were included in the waiver; exceeds

(ii) the total amount payable to the State or sub-State jurisdiction under part E of title IV of such Act for the fiscal year so specified for foster care expenditures (whether payable under paragraph (1) or (3) of section 474(a) of such Act) that were maintenance, administration, or training costs of the demonstration project taken into account by the Secretary in determining the total amount referred to in clause (i) of this subparagraph.

(B) APPLICABLE PERCENTAGE DEFINED.—In this subparagraph, the term “applicable percentage” means— 90 percent, in the case of fiscal year 2020; or 75 percent, in the case of fiscal year 2021.

(C) SPECIAL RULE.—The calculation under subparagraph (A) with respect to a State shall be made without regard to—

(i) any change approved after August 31, 2019, in the capped allocation or the terms and conditions referred to in clause (i) of subparagraph (A) with respect to the State; or

(ii) any change made after such date to the financial form submitted by the State that is used in determining the capped allocation.

(D) DISTRIBUTION OF FUNDS.—Each State that receives funds under this paragraph shall distribute the funds to jurisdictions in the State that were operating demonstration projects under section 1130 of the Social Security Act in a manner consistent with each sub-State jurisdiction’s proportionate loss as compared with fiscal year 2019.

(E) RECONCILIATION PROCESS.—Each State seeking a payment under this paragraph shall report expenditures pursuant to part E of title IV of the Social Security Act (42 U.S.C. 5670 et seq.) in a manner determined by the Secretary and the Secretary shall account for any revisions to spending for fiscal years 2020 and 2021 after the end of the respective fiscal year that are reported by the State agency administering the State

plan approved under such part, and received by the Department of Health and Human Services, within 2 years after the last day of the fiscal quarter in which the expenditure was made.

(F) AVAILABILITY OF FUNDS.—The amounts made available for payments to States under this paragraph for a fiscal year shall remain available through the end of the third succeeding fiscal year.

(3) USE OF FUNDS.—

(A) IN GENERAL.—In addition to the purposes specified in part B of title IV of the Social Security Act (42 U.S.C. 671 et seq.), a State may use funds provided under this subsection for activities previously funded under a demonstration project under section 1130 of such Act (42 U.S.C. 1320a–9) to reduce any adverse fiscal impacts as jurisdictions transition funding sources for the projects, and for activities directly associated with the implementation of title VII of division E of Public Law 115–123 (also known as the Family First Prevention Services Act).

(B) LIMITATION.—None of the funds provided under this subsection may be used to match Federal funds under any program.

(d) REPORTING ON ENHANCED FUNDING FOR TRANSITION ACTIVITIES.—

(1) IN GENERAL.—Each State to which funds are paid under subsection (c) of this section shall submit to the Secretary, in a manner specified by the Secretary, a written report on—

(A) how the grant is used to implement each part of title VII of division E of Public Law 115–123 (also known as the Family First Prevention Services Act), with a separate statement with respect to each such part;

(B) all programs, services, and operational costs to which the grant is put;

(C) the characteristics of the families and children served by use of the grant; and

(D)

(i) the use by the State of amounts provided for each fiscal year to continue activities previously funded under a waiver provided under section 1130 of the Social Security Act (42 U.S.C. 1320a–9); and

(ii)

(I) the plan of the State to transition the activities so that needed activities can be provided under the State plan approved under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.); or

(II) if expenditures for the activities would not be eligible for payment under the State plan approved under such part E—

(aa) the reason therefor; and

(bb) the funding sources the State plans to use to cover the costs of needed activities.

(2) APPLICABILITY OF OTHER LAWS.—For purposes of subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.), each report required by paragraph (1) of this

subsection shall be considered to be required by section 432(a)(8) of such Act (42 U.S.C. 629b(a)(8)), and shall contain such additional information as the Secretary may require.

(e) DEFINITION OF STATE.—In this section, the term “State” has the meaning given the term in section 431(a)(4) of the Social Security Act (42 U.S.C. 629a(a)(4)).

(f) RENAMING OF TITLE IV–B–2 OF THE SOCIAL SECURITY ACT.—The subpart heading for subpart 2 of part B of title IV of the Social Security Act is amended by striking “Promoting Safe and Stable Families” and inserting “MaryLee Allen Promoting Safe and Stable Families Program”.

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as if included in the Bipartisan Budget Act of 2018 on the date of the enactment of such Act.

(h) TECHNICAL CORRECTION.—Section 50701 of the Bipartisan Budget Act of 2018 (42 U.S.C. 1305 note; Public Law 115–123) is amended by striking “Bipartisan Budget Act of 2018” and inserting “Family First Prevention Services Act”.