Description of the Chairman's Mark

The Supporting At-Risk Children Act of 2013

Scheduled for Markup
By the Senate Committee on Finance
On December 12, 2013

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Title I – Strengthening and Finding Families for Children

Sec. 101 – Short Title of Title.

Title I of the Chairman's Mark may be cited as the "Strengthening and Finding Families for Children Act."

Subtitle A – Adoption Incentive Payments

Sec. 111 – Extension of Program Through Fiscal Year 2016.

Three-Year Extension of State Eligibility to Earn Awards and of Funding Authority

Current Law

States are eligible to earn incentive awards for increasing adoptions from foster care during each of FY2008 - FY2012. Up to $43 million is authorized to be appropriated to pay these incentive awards (on a discretionary basis) for each of FY2009-FY2013. Any amount appropriated to pay the incentives remains available until expended, except that none of the funds may be available after FY2013. (Section 473A(b)(5)) and Section 473A(h)(1)(D) and (h)(2))

Chairman's Mark

Would extend states' ability to earn incentive funds for three years (FY2013-FY2015) and would extend discretionary funding authorization at the current law level for three years (through FY2016). Would provide that no funds appropriated for incentive awards could be expended after FY2016.

Sec. 112 – Improvements to Award Structure.

State Eligibility to Earn Awards in any Category Independent of Performance in Other Award Categories

Current Law

A state may not earn an incentive award for increases in the number of special needs adoptions (of children under age 9) unless it has, in the same year, increased its number of foster child or older child adoptions, or improved on its highest ever foster child adoption rate. (Section 473A(b)(2))

Chairman's Mark

Would strike this eligibility language, effectively permitting a state to earn an award in any category allowed by the law, independent of its performance in any other award categories. (Section 112(a) of the Chairman's Mark)

State Must Report Data (to Permit Determination of State Performance)

Current Law

To be eligible to receive incentive awards a state must, for each fiscal year, submit data necessary for the U.S. Department of Health and Human Services (HHS) to calculate the number of foster child, older child, and special needs (under age 9) adoptions, and to calculate the state's foster child adoption rate. These data must be submitted to HHS via the Adoption and Foster Care Analysis and Reporting System (AFCARS). (Section 473A(c)(2))

Chairman's Mark

Same as current law except that states would be required to submit data necessary to determine rates in each of four award categories included in Chairman's Mark (described below) and that states may also be required to provide certain information necessary to determine rates of foster child guardianships separate from AFCARS reporting.

Award Categories and Award Amounts

Current Law

A state that increases the number of adoptions it achieved in a specific category in the given fiscal year may earn an incentive award. Specifically, for each –

- foster child adoption that is above the number of those adoptions completed by the state in FY2007, the state earns $4,000;
- older child adoption (age 9 years or more) that is above the number of those adoptions that the state completed in FY2007, the state earns $8,000;
- "special needs" adoption of a child who is younger than 9 years of age, a state may earn $4,000.

A state's incentive award amount is equal to the sum of the awards it earns in each of these categories. However, if there are not enough funds appropriated to pay those amounts in full, HHS must pro-rate the award amount paid to a state based on its share of total incentive payments earned in these three award categories. (Section 473A(d)(1) and (2))

Alternatively, if appropriated incentive funding available exceeds the amount needed to make the awards for three award categories described above, HHS must provide additional incentive awards to states that

improved their rates of children adopted out of foster care. A state is considered to have improved its foster child adoption rate if it achieves a foster child adoption rate that is higher than the rate it achieved in FY2002 or in any succeeding fiscal year (prior to the year for which the award is being determined). The award amount for improvements in the highest ever rate of foster child adoptions is equal to $1,000 multiplied by the number of adoptions calculated to have been completed by the state due to its improved adoption rate. (Section 473A(d)(3))

Chairman's Mark

Would replace these award categories with four new award categories based on improvements in a state rate (or percentage) of adoptions and/or guardianships. Specifically, a state that improved its rate of –

- foster child adoptions would receive $4,000 for each foster child adoption calculated to have been completed due to the state's improved foster child adoption rate;
- special needs (under age 9) adoptions would receive $4,500 for each such adoption calculated to have been completed due to the improved rate;
- older child adoptions or older child guardianships would receive $8,000 for each such adoption or guardianship calculated to have been completed due to the improved rate; or
- foster child guardianships would receive $4,000 for each such guardianship calculated to have been completed due to the improved rate

A state would be found to have improved its rate in any or each of these four categories if the rate (or percentage) of adoptions and/or guardianships it achieved in the given category for a fiscal year was higher than the average rate it achieved in that award category for the three immediately preceding fiscal years. (That rolling three-year average rate for each award category is referred to as the state's "base rate" for the given award category. These state-specific rates – discussed more below – is the base measure against which the state's most recent performance would be compared.)

The sum of any amount earned in each of the four award categories would be paid at the same time to each state out of any available appropriations. If funds were insufficient to fully pay the awards, HHS would be required to pro-rate payments based on a state's share of total incentives earned across all four award categories.

Definition of Foster Child Adoption, Associated Rate and Base Measure

Current Law

A "foster child adoption" is defined as the final adoption of a child, who at the time of the adoptive placement, was in foster care under the supervision of the state. A state's base number of foster child adoptions is the number of those adoptions it completed in FY2007. A state's "foster child adoption rate" is the percentage determined when the state's number of foster child adoptions that occurred in the fiscal year is divided by the number of all children who were in the state's foster care caseload on the last day of the preceding fiscal year. (For example, if the state completed 150 adoptions in the fiscal year and it had 1,000 children in foster care in the last day of the preceding fiscal year, its foster child adoption rate

would be 15%.) A state's "highest ever foster child adoption rate" is the highest percentage of foster child adoptions the state completed in any fiscal year (beginning with FY2002) that is before the fiscal year for which an incentive award is being determined. (Section 473A(g)(1),(3) (7) and(8))

Chairman's Mark

The definition of "foster child adoption" and "foster child adoption rate" would be effectively the same as in current law. A state's "base rate of foster child adoptions" would be a rolling percentage equal to its average foster child adoption rate for the three fiscal years immediately preceding the year for which the award is being determined.

Definition of Foster Child Guardianship and Associated Rate and Base Rate

Current Law

No provision.

Chairman's Mark

Would define a "foster child guardianship" as a child's exit from foster care to a legal guardian if the state agency reports to HHS that it has determined all of the following: 1) the child was removed from his/her home pursuant to a voluntary placement agreement or a judicial determination that the home was contrary to the welfare of the child; 2) returning the child to that home is not an appropriate option; 3) the child demonstrates a strong attachment to the prospective legal guardian and the prospective legal guardian has a strong commitment to caring permanently for the child; and 4) if the child is at least 14 years of age, he/she has been consulted regarding the legal guardianship. Alternatively, a foster child guardianship could also mean any exit of a child from foster care to a legal guardian if the state reports to HHS the alternative procedures it used to determine that legal guardianship is the appropriate option for the child. A state's "foster child guardianship rate" would be the percentage determined by dividing the number of foster child guardianships that occurred in the state during the fiscal year by the number of children who were in foster care in the state on the last day of the preceding fiscal year. The "base rate of foster child guardianships" would be equal to the state's average foster child guardianship rate for the three fiscal years immediately preceding the year for which an award is being determined.

Definitions of an Older Child Adoption or Older Foster Child Guardianship and Associated Rate and Base Rate

Current Law

An "older child adoption" is defined as the final adoption of a child who is age nine or older, if, at the time of the adoptive placement the child was in foster care under the supervision of the state or, if the state had entered into a Title IV-E adoption assistance agreement on the child's behalf. The "base number

or older child adoptions" is the number of older child adoptions the state finalized in FY2007. There is no rate associated with older child adoption award category. (Section 473A(g)(5)and(6))

Chairman's Mark

An older child adoption would be defined as in current law. An older foster child guardianship would mean the placement into legal guardianship of a child who is age nine or older if at the time of that placement the child was in foster care under the supervision of the state. A state's "older child adoptions and older foster child guardianships rate" would equal the percentage determined by dividing a state's combined number of older adoptions and older foster child guardianship finalized in the given fiscal year by the number of children age 9 years or older who were in the state's foster care caseload on the last day of the preceding fiscal year. A state's "base rate of older child adoptions and older foster child guardianships" the average of the older adoptions and older foster child guardianships rate for the state for the three fiscal years immediately preceding the year for which an award is being determined.

Definitions of Special Needs Adoption (of Children Under Age 9) and Associated Rate, and Base Rate

Current Law

The term "special needs adoption" refers to the final adoption of a child on whose behalf the state has entered into an adoption assistance agreement (under the Title IV-E foster care and adoption assistance program). The term "base number of special needs adoptions that are not older child adoptions" (i.e., the number of special needs adoptions of children under the age of nine) is the number of those adoptions the state completed in FY2007. There is no rate associated with special needs adoptions. (Section 473A(g)(2)and(4))

Chairman's Mark

The term "special needs adoptions that are not older child adoptions" would be effectively the same as in current law, i.e., adoptions of children who are under nine years of age and for whom the state has entered into a Title IV-E adoption assistance agreement. The state's "special needs adoption that are not older child adoptions rate" would be the percentage determined by dividing the number of those adoptions in the state during the fiscal year by the number of children in the state's foster care caseload who were under age nine, on the last day of the preceding fiscal year. A state's "base rate of special needs adoptions that are not older child adoptions" would be the average of the special needs adoptions that are not older child adoptions rate for the state for the three fiscal years immediately preceding the year for which an award is being determined.

Sec. 113 – Renaming the Program

Current Law

The incentive program is named in the statute as "Adoption Incentive Payments." (Section 473A)

Chairman's Mark

Would rename the program "Adoption and Legal Guardianship Incentive Payments" and would make conforming amendments throughout the program provisions, including headings to reference both adoption and legal guardianship.

Sec. 114 – Limitations on Use of Incentive Payments

Current Law

A state must spend incentive awards it earns in this program to provide any of the broad range of child welfare-related services to children and families that are authorized under Title IV-B or Title IV-E, including post-adoption services. The state may not count spending of these incentive awards as non-federal spending for purposes of meeting "matching" requirements for programs authorized in Title IV-B or Title IV-E, (i.e., Stephanie Tubbs Jones Child Welfare Services Program, Promoting Safe and Stable Families Program, Foster Care Maintenance Payments and Adoption Assistance program, and Chafee Foster Care Independence Program). (Section 473A (f))

Chairman's Mark

Would retain these limitations on state use of incentive funds received under this program. Would further stipulate that a state must use any such incentive awards earned to "supplement, and not supplant" any federal or non-federal funds used to provide services under Title IV-B or Title IV-E. Additionally, any state that is paid such an incentive award in a given fiscal year that exceeds $100,000 would be required to spend at least 25% of this award to provide services to children who have been reunited with their families to support and sustain the reunification. This includes services to youth who after emancipating from foster care return to their families (to support and sustain those returns).

Sec. 115 – State Report on Calculation and Use of Savings Resulting from the Phase-Out of Eligibility Requirements for Adoption Assistance; Requirement to Spend 40 Percent of Savings on Certain Services

Current Law

States are required to document savings in state spending (if any) that result from expanding federal eligibility for Title IV-E adoption assistance and to spend any of that savings on the broad range of child welfare-related services to children and families that are authorized under Title IV-B or Title IV-E,

including post-adoption services. [This expanded eligibility was authorized by the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) and is primarily the result of removing income eligibility for Title IV-E adoption assistance]. (Section 473(a)(8))

Chairman's Mark

States would be required to calculate the savings (if any) resulting from expanding eligibility for Title IV-E adoption assistance using a methodology specified by HHS, or one proposed by the state and approved by HHS. Each state would be required to report annually to HHS on – 1) the method it used to calculate the savings (regardless of whether any savings were found); 2) the amount of any savings identified, and 3) how any such savings are spent. This report would need to be provide a "detailed account" of the spending (in accordance with requirements established by HHS) to ensure the state meets the requirement for reinvesting these savings in child welfare services. Additionally the report on any spending of these funds would need to be made separately from other reports on spending made by states to HHS for programs under Title IV-B or Title IV-E.

Additionally, states would be required to spend not less than 40% of any state savings identified (due to expanded eligibility for federal Title IV-E assistance) to provide 1) post-adoption or post-guardianship services and 2) services to support and sustain positive permanent outcomes for children who otherwise might enter state foster care. This spending would need to be used to "supplement, and not supplant" any federal or non-federal funds being used to provide any child welfare-related service authorized under Title IV-B or Title IV-E.

Finally, HHS would be required to post the annual reports made by each state regarding any such savings and how they are spent on the agency website in a location that is easily accessible to the public.

Sec. 116 – Preservation of Eligibility for Kinship Guardianship Assistance Payments with a Successor Guardian

Current Law

To be eligible for federal (Title IV-E) kinship guardianship assistance a child must, among other requirements, have entered foster care after having been removed from a home with low income and must have lived with the prospective legal relative guardian for at least six months while in foster care. (Section 473(d)(3))

Chairman's Mark

Would permit a child who has already been determined to be eligible for Title IV-E kinship guardianship assistance to remain eligible (without re-entering foster care or otherwise re-determining eligibility) in the event his/her relative legal guardian dies or becomes incapacitated. Specifically, would allow the Title IV-E kinship guardianship assistance payments made on the child's behalf to be paid to a successor legal guardian who is named in the child's Title IV-E kinship guardianship assistance agreement (including any amendment to that agreement).

Sec. 117 – Data Collection on Adoption and Foster Child Guardianship Disruption and Dissolution

Regulation to Require State Collection and Reporting of Data on Adoption

Current Law

HHS was required to establish, by regulation, a data collection system, to provide for comprehensive national information with respect to children in foster care and those who are adopted. Any data collection system developed was required to assure that the data collected are reliable across jurisdictions through the use of "uniform definitions and methodologies." Pursuant to these requirements, HHS developed the Adoption and Foster Care Analysis Reporting System (AFCARS), which, effective with FY1995, required states to submit case level data on children in foster care and children adopted with child welfare agency involvement. The data must be reported using a set of data elements that are provided in regulations. (Section 479)

States are required to report annually to HHS on their planned and actual spending of funds received under the Promoting Safe and Stable Families Program (Title IV-B, Subpart 2), including, separately funds spent for "adoption promotion and support services." (Section 432(a)(8)(B)

Chairman's Mark

Not later than 12 months after the enactment of these provisions, would require HHS to promulgate final regulations providing for states to collect and report information regarding children who enter foster care because their adoptions or foster child guardianships disrupt or are dissolved. The regulations would need to require that the information collected and reported include the numbers of such children, and, for each of those children, the length of adoptive or foster child guardianship placement before disruption or dissolution, the reason for the disruption or dissolution, and the agency that handled the adoption or foster child guardianship placement. Further, the regulations would need to require states to collect and report this information for children born in this country or another country. However, with regard to children born in another country, states would only need to report this information with regard to disrupted and dissolved adoptions (not foster child guardianships) and states must also be required to report the country of birth for each of any such children.

The regulations would further need to provide for state reporting of additional illustrative, supplemental or descriptive material elaborating on reasons for disruptions and dissolutions of adoptions or foster child guardianship, as well as use of pre- and post-adoptive services to lower rates of disruption and dissolution. Finally, the regulations would need to require states to report how they spend funds received under the Promoting Safe and Stable Families Program to promote adoption, and separately, to provide pre- and post-adoptive support services.

Generally, HHS would need to require that this collection and reporting of data occur via AFCARS. However, as appropriate, the regulations would permit HHS to require states to report any "supplementary, descriptive, or spending information" in a separate system or as part of other already required reporting under Title IV-E or Title IV-B.

HHS Required to Provide Annual Data on Disruptions and Dissolutions

Current Law

HHS must annually submit to Congress a report on the performance of each state with regard to achieving specific child welfare outcomes (e.g., ensuring placement stability for children in foster care, finding children adoptive homes as appropriate) and must examine in this report the reasons for variation in state performance and, when possible, suggested how states could improve their performance. HHS must also include in this annual report, state-by-state data on the number of children in foster care who are visited by their caseworkers on a monthly basis. (Section 479A)

Chairman's Mark

Would require HHS to annually (beginning with FY2016) include in this report information collected, as a result of the new data collection and reporting regulations, on the numbers and rates of disruptions and dissolutions of adoptions. This information would need to be shown in the report on both a national and a state-by-state basis.

Sec. 118 – Effective Dates

Generally the provisions of this subtitle (related to Adoption Incentives, successor guardianship, and other adoption-related issues) would be made effective as if enacted on October 1, 2013. However, the provisions changing the incentive payment structure and renaming the program would not take effect until one year later, October 1, 2014 and are subject to additional transition rules. Under these transition rules, incentive awards made in FY2014 (for adoptions finalized in FY2013) would be paid under the incentive structure described above as current law. Further, awards paid in FY2015 (for adoptions or foster child guardianships completed in FY2014) would be paid as one-half of any amount a state would earn under the incentive structure in current law (as described above) plus one-half of any amount a state would earn under the incentive structure included in the Chairman's Mark. Finally, the incentive structure included in the Chairman's Mark would be fully implemented with FY2016.

Subtitle B – Extension of Family Connection Grant Program

Sec. 121 – Extension of Family Connection Grant Program

Continue Mandatory Funding for Family Connection Grants

Current Law

Family Connection Grants support demonstration projects to implement four kinds of services: kinship navigator programs, intensive family finding efforts, family group decision making meetings, and residential family treatment programs that address substance abuse and mental health issues. Annual funding for these grants ($15 million) was provided on a mandatory basis for each of FY2009-FY2013. [The FY2013 appropriation was subject to sequestration which reduced program funding provided for that year to $14 million.] (Section 427)

Chairman's Mark

Would extend annual mandatory funding of $15 million for these grants for three years (FY2014-FY2016).

Entities Eligible to Apply for Family Connection Grants

Current Law

HHS may award Family Connection grants to state, local, or tribal child welfare agencies or to private nonprofit organizations that have experience working with foster children or children in kinship care arrangements. (Section 427(a))

Chairman's Mark

Would additionally permit HHS to award Family Connection grants to "institutions of higher education" as defined in Section 101 of the Higher Education Act.

Foster Family Homes for Youth in Care Who are Parents

Current Law

Kinship navigator programs supported with Family Connection Grant funding are intended to assist kinship caregivers in finding and accessing services and programs to meet their own needs and the needs of the children for whom they care. Among other requirements these programs must promote partnerships between public and private agencies – including schools, community-based or faith-based organizations, and relevant government agencies – to increase knowledge among these entities of the needs of kinship caregiver families and to promote better services for those families. (Section 427(a)(1) and (a)(1)(E))

Chairman's Mark

Would provide that the efforts to promote public-private partnerships to improve awareness of, and services for, kinship care families must also extend to individuals who are willing to be foster parents for youth in foster care who are parents.

Reservation of Funds

Current Law

HHS must annually reserve $5 million in Family Connection Grant funding to support kinship navigator programs.

Chairman's Mark

Would no longer require this specific reservation of Family Connection funds (although grants could still be made available to support these programs on the same basis as the other authorized services).

Subtitle C – Unemployment Compensation

Sec. 131 – Improving the Collection of Unemployment Insurance Overpayments through Tax Refund Offset

Current Law

States are required to have certain laws in place as a condition or receiving federal funds related to Unemployment Compensation. (Section 303)
The Treasury Offset Program authorizes states to recover certain state unemployment benefit overpayments but does not require them to do this. (Section 6402(f) of the Internal Revenue Code)

Chairman's Mark

As a condition of receiving federal funds related to Unemployment Compensation, would require states – after two years of attempting to collect state unemployment benefit overpayments – to recover any remaining state overpayments through reduced federal income tax refunds.

Title II – Identifying and Serving Youth Vulnerable to Sex Trafficking

Sec 201 – Short Title

Title II of the Chairman's Mark may be cited as the Protecting Youth At-Risk for Sex Trafficking Act.

Subtitle A – Addressing the Risks that Make Youth Vulnerable to Sex Trafficking

Sec. 211 – Identifying and Screening Youth at Risk of Sex Trafficking

Current Law

State child welfare agencies are required as part of their current Title IV-E plan to report to an appropriate agency or official known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under any federal child welfare program authorized in Title IV-E or Title IV-B. (Section 471(a)(9))

Chairman's Mark

Would amend this Title IV-E plan provision to further require that the state child welfare agency, in consultation with the state child protective services agency or unit, develop policies and procedures for identifying, screening, and determining appropriate state actions and services for any child who the state has reasonable cause to believe is a victim of sex trafficking or is at risk of being a sex trafficking victim. These policies and procedures would need to apply to any child (individuals under the age of 18) without regard to whether that child is in foster care as well as to any individual in foster care up to age 19, 20, or 21 (if the state has chosen to provide foster care up to that older age). Additionally, states would be permitted to apply these policies and procedures to any individual (regardless of current or former foster care status) up to the age of 26. Each state would need to demonstrate to the U.S. Department of Health and Human Services (HHS) that it had developed these policies and procedures no later than one year after enactment, and would need to demonstrate that it was implementing them no later than two years after enactment.

For purposes of this provision, sex trafficking would be defined as the "recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act" and any severe form of trafficking in persons in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age. (These definitions are taken from Section 103(9)(A) and (10) of the Trafficking Victims Protection Act.)
For purposes of this provision, sex trafficking would be defined as the "recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act" and any severe form of trafficking in persons in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age. (These definitions are taken from Section 103(9)(A) and (10) of the Trafficking Victims Protection Act.)

Sec. 212 – Improvements to Another Planned Permanent Living Arrangement as a Permanency [APPLA] Option

APPLA May Not Be the Permanency Plan for a Child Under 16 Years of Age

Current Law

A state must have procedures to ensure that each child in foster care has an annual hearing (in a court or before a court-appointed administrative body) to determine (or re-determine) a plan for how the child will achieve permanency. A child's permanency plan may be established as 1) reuniting with parents; 2) adoption; 3) guardianship; OR 4) if the state has documented for the court a compelling reason that none of these permanency plans is in the child's best interest, "another planned permanent living arrangement" (APPLA). (Section 475(5)(c))

Further, a state must have a service program designed to help children in foster care achieve permanency through returning to their parents (when safe and appropriate), adoption, guardianship, placement with a fit and willing relative, or, if none of those options is appropriate, placement in some other planned permanent living arrangement (including residential education programs). (Section 422(b)(8)(iii))

Chairman's Mark

Would amend both of these provisions to further stipulate that no child under age 16 may have a permanency plan of APPLA. Further, before APPLA could become the permanency plan for a youth in foster care, the state would need to document for the court why, as of the date of the permanency hearing, there was a compelling reason to determine that reunification, adoption, or guardianship was not in the youth's best interest.

Additional Permanency Hearing and Other Requirements for Youth with APPLA as Permanency Plan

Current Law

As part of its case review system, a state must have in place procedures to ensure that each child in foster care has a permanency hearing within 12 months of entering foster care, and every 12 months thereafter while he/she remains in foster care. The permanency hearing must be held in a court (or by a court-appointed administrative body) and it must determine, or re-determine, the child's permanency plan (i.e., reunification, adoption, guardianship or APPLA). Further, the state must have procedures to ensure that any court or court-appointed administrative body holding the permanency hearing consults with a child, in an age-appropriate manner, regarding any proposed permanency plan.

Additionally, certain consideration must be made at the permanency hearing for children in specified circumstances. (Section 475(5)(C))

Chairman's Mark

Would require additional actions at any annual permanency hearing involving a youth for whom the permanency plan is APPLA and additional state agency appearances before a court for any youth with APPLA as his or her permanency plan. Specifically, at each permanency hearing involving a youth with APPLA as his or her permanency plan:

The state child welfare agency must document for the court the ongoing, but, to date, unsuccessful, efforts to return the youth to his/her parents or to secure a placement for the youth with an adoptive parent, legal guardian, or a fit and willing relative. These efforts must include use of search technology to locate biological family members of the child.

The court or court-appointed administrative body holding the hearing must –

- ask the youth if he or she wants to be adopted;
- determine, separately, the compelling reasons why it continues to be not in the child's best interest to be returned home, placed for adoption, placed with a legal guardian, or placed with a fit and willing relative;
- identify barriers to permanency plans other than APPLA for the child;
- make a new determination regarding whether APPLA is the appropriate permanency plan for the child and submit findings as to why, as of the date of the hearing, APPLA is the best permanency option for the child; and
- require the state child welfare agency to document, at the child's next permanency hearing, the intensive efforts to address those identified barriers and allow a different permanency plan to be established for the youth.

Additionally, for each child living in another planned living arrangement, would require the state child welfare agency to appear before the court (or an administrative body appointed or approved by the court), at least once every six months to demonstrate –

- that an individual other than the child's caseworker is the child's caregiver for purposes of making reasonable and prudent parenting decisions on the child's behalf, including signing permission slips and giving informal permission for the child to participate in age-appropriate activities; and
- the steps being taken to reduce barriers (including paperwork) to the child's regular and ongoing opportunities to engage in age-appropriate activities, including social events.

Conforming Amendments: Definition of "Reasonable and Prudent Parent Standard," and "Age or Developmentally Appropriate"

Current Law

Includes definitions that apply to the federal foster care program under Title IV-E, as well as other child welfare programs in Title IV-E and in Title IV-B. (Section 475)

Chairman's Mark

Would add definitions of the "reasonable and prudent parent standard" and of the related term "age or developmentally appropriate."

The "reasonable and prudent parent standard" would be defined as "characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth," and, further, as the standard that a caregiver – the child's foster parent or a designated official at the child care institution where a child is placed – must use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, and social activities.

"Age or developmentally appropriate" would be defined as "activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for the child, based on the development of cognitive, emotional, physical, and behavioral capacity that are typical for an age or age group." With respect to a specific child, the term would mean "activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the child's cognitive, emotional, physical and behavioral capacities." Would stipulate however, that if any of these activities have implications relative to a child or youth's academic curriculum, nothing included in Title IV-E or Title IV-B (both of which are related to child welfare policy) would be permitted to be understood as authorizing an officer or employee of the federal government to "mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction."

Conforming Amendments: State Plan Requirements

Current Law

As part of their program plan under Title IV-B, Subpart 1 (Stephanie Tubbs Jones Child Welfare Services Program) states must meet all the requirements of the case review system for each child in foster care (Section 422(b)(8)(A)(ii)). Under the Title IV- E program plan, states are required to meet some of the case review procedures on behalf of children in foster care who are eligible for Title IV-E foster care assistance (Section 471(a)(16)). In addition, federal regulations require states to meet all requirements of the case review system as a condition of eligibility for federal foster care maintenance payment support under the Title IV-E program (45 C.F.R. 1356.21(a))

Chairman's Mark

Would require states to meet all case review system requirements, including the new provisions related to children with APPLA, as part of their Title IV-E plan. Would also require states to meet the new case review system requirements, related to APPLA, under their Title IV-B, Subpart 1 state plan.

Collected Child Support Directed to Certain Youth in Care

Current Law

States are required to use any child support payments collected on behalf of a child (while the child is receiving Title IV-E foster care maintenance payments) to pay back the cost of the foster care maintenance payment. The child support funds collected must be divided between the state and the federal government in proportion to their share of the Title IV-E foster care maintenance payments made. (Section 457(e)(1))

Chairman's Mark

For any youth with a permanency plan of APPLA and who is receiving Title IV-E foster care maintenance payments, the state child welfare agency would be required to deposit all child support payments collected on the youth's behalf into an account specifically for the youth and which must only be used by the state for payment of fees or other costs attributable to the child's participation in age or developmentally appropriate activities. Any funds remaining in a youth's account at the time he or she exits care (for any reason) must be provided to the youth.

For any youth in foster care under the responsibility of the state at age 18 or any older age, up to 21 (as elected by the state), the state would be required to pay any child support collected on his or her behalf directly to the youth.

Procedures to Implement These Child Support Collection Efforts Must be Documented by Child Support Agency

Current Law

To receive federal child support funds states must have a plan for child support enforcement (CSE) that meets federal requirements. (Section 454)

Chairman's Mark

Would require each state, as part of its CSE plan, to provide a description of the procedures it has in place to comply with the requirements related to distribution of child support collected for youth with an APPLA permanency plan or for youth who are in foster care at age 18 or older.

Effective Dates for Section 212

Generally, all of the changes in Section 212 related to use of another planned permanency arrangement (APPLA) and child support collected on behalf of certain youth in foster care are effective one year after the date of enactment of the bill.

However, in the event the state needs to enact legislation (other than legislation appropriating funds) to enable it to meet the new child support requirements (under Title IV-D) it may have specified additional time to meet the requirements.

Subtitle B – Empowering Older Youth Vulnerable to Domestic Sex Trafficking and Other Negative Outcomes

Sec. 221 – Empowering Foster Youth Age 14 and Older in the Development of Their Own Case Plan and Transition Planning for a Successful Adulthood

Case Planning for Youth Age 14 and Older

Current Law

Each child in foster care is to have a written case plan. Among other items, the plan must (1) provide certain assurances, including that the child receives safe and proper care, and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home and to enable the child to return home or to another permanent setting; and (2) address the needs of the child while in care, including a discussion of the appropriateness of the services that have been provided to the child under the plan. (Section 475(1)(B))

Chairman's Mark

Would add that the case plan for any youth 14 and older must be developed and amended in consultation with the youth—and at the youth's option, up to two members of the case planning team who are chosen by the youth and who are not the youth's foster parent or caseworker. Would permit a state to reject an individual selected by the child if the state has good cause to believe that the individual would not act in the best interests of the child. Would also note that one individual selected by the child to be a member of the case planning team may be designated as his or her advisor, and, as necessary, advocate, with respect to application of the reasonable and prudent parent standard.

Permanency Hearings for Children

Current Law

As part of its case review system, a state must have in place procedures to ensure that each child in foster care has a permanency hearing within 12 months of entering foster care, and every 12 months thereafter while he/she remains in foster care. The permanency hearing must be held in a court (or by a court-appointed administrative body) and it must determine, or re-determine, the child's permanency plan (i.e., reunification, adoption, guardianship or APPLA). For any child in care age 16 and older, the court or administrative body conducting the hearing must determine at the permanency hearing any services

necessary to assist the child to make a transition from foster care to independent living. (Section 475(5)(C))

Chairman's Mark

Would extend the case plan requirements for youth age 14 or older to a youth's permanency plan. Would also make the permanency hearing requirement for youth age 16 or older applicable to those youth age 14 and older, and would replace "independent living" with "a successful adulthood."

Report to Congress on Case Planning Team

Current Law

No provision.

Chairman's Mark

Would require HHS to submit a report to Congress, within two years of the enactment of the Chairman's Mark, that includes: (1) an analysis of how states are administering the requirements pertaining to the youth selecting up to two members of their case planning team for purposes of developing and amending their case plan and permanency plan; and (2) a description of best practices of states with respect to the administration of this requirement.

Planning for a Successful Adulthood for Older Youth

Current Law

In addition to other case plan requirements, the case plan for youth in foster care at age 16 or older, where appropriate, must also include a written description of the programs and services that will help the child prepare for the transition from foster care to independent living. (Section 475(1)(D))

Chairman's Mark

Would stipulate that this case plan requirement would extend to all children age 14 and older, and would replace "independent living" with "a successful adulthood."

Current Law

The court or administrative body conducting the permanency hearing—including any hearing regarding the transition of the child from foster care or independent living—must consult, in an age-appropriate manner, with the child regarding the proposed permanency plan or transition plan for the child. [Section 475(5)(C)(iii)]

Chairman's Mark

Would replace the reference to "independent living" with "a successful adulthood."

List of Rights Included in Case Planning for Children Age 14 or Older

Current Law

No provision.

Chairman's Mark

Would require that the case plan for a youth who is age 14 or older and who is in foster care or who receives federal adoption assistance or kinship guardianship assistance payments must include a written document that describes the youth's rights. The rights to be listed would pertain to education, health, visitation, and court participation, and to staying safe and avoiding exploitation. The document would need to be signed by the youth to acknowledge that he or she was provided with a written copy of the rights.

Credit Reports for Children Age 14 or Older

Current Law

As part of the case review requirements, the state child welfare agency must provide any child in foster care at age 16 or older a copy of any credit report pertaining to the child (in each year that he or she remains in care), free of charge, along with assistance in resolving any inaccuracies in the report. (Section 475(5)(I))

Chairman's Mark

Would require state child welfare agencies to make credit reports and assistance in resolving any inaccuracies in the report available to any child age 14 or older.

Section 222 – Ensuring Foster Children Age 14 or Older Have a Birth Certificate, Social Security Card, Driver's License or Equivalent and a Bank Account

Case Review System Requirement for Birth Certificate, Social Security Card, and Bank Account, and Credit Reports

Current Law

The state child welfare agency must provide any child age 16 or older a copy of any credit report pertaining to the child (in each year that he or she remains in care), free of charge, along with assistance in resolving any inaccuracies in the report. (Section 475(5)(I))

Chairman's Mark

Would further amend the credit reporting requirement to ensure that a child age 14 and older who is exiting foster care, must also have a copy of his or her official birth certificate, Social Security card, driver's license or identification card issued by a state in accordance with the requirements of Section 202 of the REAL ID Act of 2005, and fee-free or low-fee bank account established in his or her name at an insured depository institution or insured credit union. However, a youth could, after consulting with the youth's selected members of his or her case planning team (if any), elect not to have a bank account.

Reduced Federal Title IV-E Administrative Support for Failure to Ensure Youth Leaving Foster Care at Age 14 or Older Have Certain Documents

Current Law

Under the Title IV-E program, states are entitled to receive 50% federal reimbursement for eligible program administrative costs. (Section 474(a)(3)(E))

Chairman's Mark

Would stipulate a penalty for states that do not comply with the requirements to provide each child exiting foster care at age 14 or older with an official birth certificate, Social Security card, a driver's license or state-issued identification card, and a bank account (unless the child determines not to establish the bank account). Specifically, the penalty would be 1 percentage point in federal reimbursement for Title IV-E administration costs (not including training or certain data collection and related costs) for every 10 children that are discharged from foster care without such documentation or bank account within a given fiscal year quarter. The penalty would be imposed in the fiscal year quarter following the quarter for which the non-compliance is identified by HHS. It could not exceed 25 percentage points, which would equate to 250 youth.

Effective Date for Section 222

Generally, all of the changes in Section 222 related to the case review system requirement for the official birth certificate, a driver's license or state-issued identification card, Social Security card, and bank account—and the reduced federal Title IV-E administrative support for failure to comply with this requirement— would be effective as of the first day of FY2016 (October 1, 2015). However, in the event the state needs to enact legislation (other than legislation appropriating funds) to enable it to meet these

new requirements (under Title IV-B or Title IV-E) it may have specified additional time to meet the requirement.

Subtitle C—Data and Reports

Sec. 231 – Streamline Data Collection and Reporting on Sex Trafficking

State Plan Requirements on Data Collection and Reporting on Sex Trafficking and on Missing or Abducted Children

Current Law

No provision.

Chairman's Mark

Would require, as part of the Title IV-E plan, state child welfare agencies to identify and document appropriately in agency records each child identified as a victim of sex trafficking who is in foster care or otherwise under the supervision of the state, including a child who is in foster care, a child for whom a state child welfare agency has an open case file but whom has not been removed from the home, and a youth who is not in foster care but is receiving services under the Chafee Foster Care Independence Program.

Would further require each state child welfare agency to include in its Title IV-E plan a regularly updated description of the specific measures it has taken by child welfare agencies to protect and provide services to children who are victims of sex trafficking of the TVPA), including efforts to coordinate with state law enforcement, juvenile justice agencies, and social service agencies, such as runaway and homeless youth shelters.

For purposes of these Title IV-E state plan provisions, sex trafficking would be defined as the "recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act" and any severe form of trafficking in persons in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age. (These definitions are taken from Section 103(9)(A) and (10) of the Trafficking Victims Protection Act.)

Would also add as part of the Title IV-E plan, that state child welfare agencies immediately report (and in no case later than 24 hours after receiving) information on missing or abducted children to the law enforcement authorities for entry into the National Crime Information Center (NCIC) and to the National Center for Missing and Exploited Children (NCMEC). The NCIC is a computerized index of information on crimes and criminals that is maintained by the Federal Bureau of Investigation (FBI). NCMEC is a non-profit organization that receives federal funding from the Missing and Exploited Children's program

and other sources to support law enforcement agencies and families in missing children and child sexual exploitation cases.

State Reporting via Adoption and Foster Care Analysis and Reporting System (AFCARS)

Current Law

Twice a year states must report certain data to HHS via the Adoption and Foster Care Analysis and Reporting System, (AFCARS). Among other things, these data concern each child in foster care, including the child's age, current placement setting, and length of stay in the current setting. (Section 479)

Chairman's Mark

Would require HHS to promulgate regulations to ensure that states report, via AFCARS, on the number of children in foster care who are victims of sex trafficking (as defined in Section 103(10) or Section 103(9)(A) of the TVPA and used earlier to define sex trafficking victims for purposes of Title IV-E state plan provisions). Further, to the extent HHS determines this feasible, the regulations may also require states to report on the number of other children who are victims of such sex trafficking and over whom the state child welfare agency has responsibility for supervision (including children for whom it has an open case file but who have not been removed from the home, and youth who are not in foster care but are receiving services under the Chafee Foster Care Independence Program).

HHS Reporting on Sex Trafficking Victims

Current Law

HHS must annually submit to Congress a report on the performance of each state with regard to achieving specific child welfare outcomes (e.g., ensuring placement stability for children in foster care, finding children adoptive homes as appropriate) and must examine in this report the reasons for variation in state performance and, when possible, suggest how states could improve their performance. HHS must also include in this annual report, state-by-state data on the number of children in foster care who are visited by their caseworkers on a monthly basis. (Section 479A)

Chairman's Mark

As part of this existing report would require HHS to annually include information on the number of children in foster care who are victims of sex trafficking beginning in the first fiscal year for which those data are reported by states (under regulations that would be required by the Chairman's Mark.)

Would separately require HHS to submit a report to Congress within two years of the enactment of this provision that contained information (based on a survey of states) on the number of children in foster care who are victims of sex trafficking, as well as other children who are under the supervision of the state

child welfare agency and who are victims of sex trafficking (including children for whom the agency has an open case file but who have not been removed from the home, and youth who are not in foster care but are receiving services under section 477). The report would also include any information HHS determines appropriate related to the identification of, and provision of services for, these victims of sex trafficking.

Effective Date for Section 231

Generally, all of the changes related to the Title IV-E state plan requirements would be effective one year after the date of enactment of the Chairman's Mark, without regard to whether final regulations are promulgated to implement a related data reporting requirement described below. However, in the event the state needs to enact legislation (other than legislation appropriating funds) to enable it to meet these new requirements (under Title IV-E) it may have specified additional time to meet the requirement.

Sec. 232 – Recommendations to Congress for Expanding Housing for Youth Victims of Trafficking

Current Law

No provision.

Chairman's Mark

Would require that within one year of the enactment of this section, the heads of five agencies—Department of Defense, HHS, Department of Housing and Urban Development, Department of Homeland Security, and Department of Justice—must submit a report to Congress that contains recommendations for administrative or legislative changes necessary to use programs, properties, or other resources owned, operated, or funded by the federal government to provide safe housing for youth who are "victims of trafficking" and to provide support to entities that provide housing or other assistance to such victims. Would require the report to include (with respect to programs, properties, or other resources owned, operated, or funded by each of the four agencies) information regarding (1) the availability and suitability of existing federal, state, and local housing resources that are appropriate for housing youth victims of trafficking or for providing support to entities that provide housing or other assistance to such victims, including in rural and isolated locations; and (2) the feasibility of establishing or supporting public-private partnerships to provide housing for such victims or support to entities that provide housing or other assistance to such victims.

In this section "victim of trafficking" would refer to both sex trafficking and certain labor trafficking.

Subtitle D—National Advisory Committee on Domestic Sex Trafficking

Sec. 241 – National Advisory Committee on Domestic Sex Trafficking

Committee Composition and Compensation

Current Law

No provision.

Chairman's Mark

Would require the HHS Secretary to establish the National Advisory Committee on Domestic Sex Trafficking and to appoint all members of the committee (in consultation with the Attorney General) within 180 days after the date of the enactment of Section 241. Would require the committee to be composed of not more than 21 members "whose diverse experience and background enable them to provide balanced points of view with regard to carrying out the duties of the committee." Would stipulate that the committee must not be composed solely of federal officers or employees and that appointments would be made for the life of the committee.

Further, a vacancy in the committee would be filled in the same manner in which the original appointment was made and would not affect the powers or duties of the committee. Committee members would serve without compensation, except that they would be reimbursed for official travel expenses and per diem for travel expenses.

Committee Duties

The committee would advise the HHS Secretary and the Attorney General on practical and general policies concerning improvements to the nation's response to domestic sex trafficking of minors from the child welfare system and the commercial sexual exploitation of children. The committee would also advise the HHS Secretary and the Attorney General on practical and general policies concerning the cooperation of several entities—(1) federal, state, local, and tribal governments; (2) child welfare agencies; (3) social service providers; (4) physical and mental health providers; (5) victim service providers; (6) state or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families; (7) federal, state, and local police; (8) juvenile detention centers and runaway and homeless youth programs; (9) schools; and (10) businesses and organizations that provide services to youth—on responding to domestic sex trafficking of minors and the commercial sexual exploitation of children, including the development and implementation of:

- successful interventions with children and teens who are exposed to conditions that make them vulnerable to, or victims of, domestic sex trafficking and commercial sexual exploitation;
- an understanding that the safety and well-being of children and teens can be compromised by the sexualization of children; the commodification of children; and a lack of normalcy

characterized by isolation, disconnection from positive appropriate, and healthy relationships with peers and adults, and an inability to engage in age appropriate activities; and
• the relationship between children and teens who are trafficked and the overall coarsening and desensitization of society to violence that puts the public safety of communities across the nation at risk.

The committee would also be required to recommend a comprehensive definition of what constitutes the "commercial sexual exploitation of children."

Best Practices for States

Would require the committee to develop two tiers (Tier I and Tier II) of recommended best practices for states to follow in combating the domestic sex trafficking of minors and the commercial sexual exploitation of children. Tier I would provide states that have not yet addressed domestic sex trafficking of minors and the commercial sexual exploitation of children with an idea of where to begin and what steps to take. Tier II would provide states that are already working to address domestic sex trafficking of minors and commercial sexual exploitation of children with examples of policies that are already being used effectively by other states to address trafficking issues. The best practices would be based on multidisciplinary research and promising, evidence-based models and programs; would be user-friendly and incorporate the most up-to-date technology; and include the following:

• Sample training materials, protocols, and screening tools to prepare child welfare personnel to identify and serve youth who are at-risk or are victims of domestic sex trafficking or commercial sexual exploitation.
• Multidisciplinary strategies to identify victims, manage cases, and improve services to meet the unique needs of this youth population.
• Sample protocols and recommendations for effective, cross-system collaboration between several entities—(1) federal, state, local, and tribal governments; (2) child welfare agencies; (3) social service providers; (4) physical and mental health providers; (5) victim service providers; (6) state or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families; (7) federal, state, and local police; (8) juvenile detention centers and runaway and homeless youth programs; (9) schools; and (10) businesses and organizations that provide services to youth. Would require these protocols and recommendations to include strategies to identify victims and collect, document, and share data across systems and agencies, and should be designed to help agencies better understand the type of trafficking or commercial sexual exploitation involved; the scope of the problem; the needs of the population to be served; ways to address the demand for trafficked children and youth and increase prosecution of traffickers and purchasers of children and youth; and the degree of victim interaction with multiple system.
• A list of recommendations to establish safe residential placements for foster youth who have been trafficked (as defined by the committee) as well as training guidelines for caregivers that serve children and youth being cared for outside the home.

Reports

Would require the committee to submit an interim and a final report on the work of the committee to the HHS Secretary, the Attorney General, the Senate Finance Committee, and the House Ways and Means Committee. Would require the interim report to be submitted not later than one year after the committee is established and the final report to be submitted not later than two years after its establishment, unless the Secretary establishes an extension period for the committee. In this case, the final report would be submitted not later than the last day of this extension period.

Committee Administration

Would require the HHS Secretary to direct the head of the Administration on Children, Youth and Families (ACYF) to provide all necessary support for the committee. Would also require the committee to meet at the call of the HHS Secretary at least twice a year to carry out the duties of the committee (specified previously), and more often as otherwise required. Would require the Secretary to call all of the meetings, prepare and approve all meeting agendas, attend all meetings, adjourn any meetings when the Secretary determines adjournment to be in the public interest, and chair all meetings when directed to do so by an official or entity to whom the committee reports.

Would authorize the committee to establish subcommittee or working groups, as necessary and consistent with the mission of the committee. Would require any such subcommittees or working groups to operate under the provisions of the Federal Advisory Committee Act of 1972, the Sunshine in Government Act of 1976, and other appropriate federal regulations. Any such subcommittees or working groups would have no authority to make decisions on behalf of the committee or to report directly to the HHS Secretary, Attorney General, or any other official or entity that are referenced under the committee's duties (i.e., child welfare agencies, social service providers, physical and mental health service providers, etc.). Would require that the records of the committee and any subcommittees or working groups be maintained in accordance with appropriate HHS policies and procedures, and be maintained for public inspection and copying, subject to the Freedom of Information Act (FOIA).

Termination of Committee

Would require the committee to terminate two years after the date it is established, unless the HHS Secretary determines that more time is necessary to allow the committee to complete its duties, in which case the committee would terminate at the end of the extension period established by the Secretary (not to exceed 24 months).

Funding

Current Law

Provides certain mandatory funds for the Census Bureau to carry out the Survey of Income and Program Participants (SIPP). (Section 414)

Chairman's Mark

Would transfer $400,000 of unobligated mandatory funds for the SIPP to establish the commission and allow it to carry out its duties. The $400,000 would not be subject to reduction under a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985. Any amounts made available for the commission that are unobligated on the date on which the committee terminates would be returned to the Treasury.

Title III – Child Support Enforcement

Sec. 301 – Short Title of Title

Title III of the Chairman's Mark would be cited as the Child Support Improvement and Work Promotion Act.

Subtitle A – Increased Reliability of Child Support

Sec. 311 – Compliance With Multilateral Child Support Conventions

Secretary's Authority to Ensure Compliance with Multilateral Child Support Convention

Current Law

The United States has generally dealt with international child support enforcement cases by negotiating bilateral agreements with individual countries. The U.S currently has bilateral agreements with 15 countries and 12 Canadian provinces/territories. Unlike multilateral agreements, the procedures and forms of bilateral agreements vary from country to country. Although courts and child support enforcement agencies in the United States already recognize and enforce most foreign child support orders, many foreign countries have not been processing child support requests from the United States. (Section 459A) On November 23, 2007, after four years of deliberation, the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (referred to herein as the Convention) was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. The United States delegation was the first country to sign the Convention. Other signatories currently include Albania, Bosnia and Herzegovina, the European Union, Norway, and Ukraine. The Convention offers the United States the opportunity to join a multilateral treaty, saving the time and expense that would otherwise be required to negotiate bilateral agreements with individual countries around the world. The Convention is expected to result in more U.S. children receiving the financial support they need from their noncustodial parents, regardless of where the parents live.

The Convention does not affect intrastate or interstate child support cases in the United States. It only applies to cases where the custodial parent and child live in one country and the noncustodial parent lives in another country.

On September 29, 2010, the U.S. Senate approved the Resolution of Advice and Consent regarding the Convention. In order for the Convention to enter into force for the United States, Congress must adopt, and there must be enacted, implementing legislation for the Convention.

Chairman's Mark

Would require the Secretary of HHS to use federal and, if necessary, state child support enforcement methods to ensure compliance with any U.S. treaty obligations associated with any multilateral child support convention to which the United States is a party.

Access to the Federal Parent Locator Service

Current Law

Under current federal law, the Federal Parent Locator Service (FPLS) is only allowed to transmit information in its databases to "authorized persons," which include (1) child support enforcement agencies (and their attorneys and agents); (2) courts; (3) the resident parent, legal guardian, attorney, or agent of a child owed child support; and (4) foster care and adoption agencies. (Section 453(c))

The FPLS is an assembly of computer systems operated by the Office of Child Support Enforcement (OCSE), to assist states in locating noncustodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation. The FPLS assists federal and state agencies to identify overpayments and fraud, and assists with assessing benefits. Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS was expanded by P.L. 104-193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) to include the following:

- The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.
- The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders.
- The Federal Offset Program (FOP): a program that collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.
- The Federal Administrative Offset Program (FAOP): a program that intercepts certain federal payments in order to collect past-due child support.
- The Passport Denial Program (PDP): a program that works with the Secretary of State in denying passports of any person that has been certified as owing a child support debt greater than $2,500.

• The Multistate Financial Institution Data Match (MSFIDM): a program that allows child support agencies a means of locating financial assets of individuals owing child support.

In addition, the FPLS also has access to external sources for locating information such as the Internal Revenue Service (IRS), the Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Department of Defense (DOD), National Security Agency (NSA), and the Federal Bureau of Investigation (FBI).

Chairman's Mark

Would expand the definition of an "authorized person" to include an entity designated as a Central Authority for child support enforcement in a "foreign reciprocating country" or in a "foreign treaty country" in cases involving international enforcement of child support.

State Option to Require Individuals in Foreign Countries to Apply Through Their Country's Appropriate Central Authority

Current Law

A CSE state plan must provide that any request for CSE services by a foreign reciprocating country or a foreign country with which the state has an arrangement must be treated as a request by a state. (Section 454(32)(A))

Chairman's Mark

Would include requests for CSE services by a "foreign treaty country" that has a reciprocal arrangement with a state as though it is a request by a state. Would also stipulate that a "foreign treaty country" and a "foreign individual" are to be treated as entities that do not have to provide applications, and against whom no costs will be assessed, for CSE services.
Would include requests for CSE services by a "foreign treaty country" that has a reciprocal arrangement with a state as though it is a request by a state. Would include a "foreign treaty country" and a "foreign individual" as entities that do not have to provide applications, and against whom no costs will be assessed, for CSE services.

Amendments to International Support Enforcement Provisions

Current Law

P.L. 104-193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) established procedures for international enforcement of child support. The Secretary of State, with the concurrence of the Secretary of HHS, is authorized to declare reciprocity with foreign countries having requisite procedures for establishing and enforcing child support orders. (Section 459A)

Chairman's Mark

Would establish a definition for three terms: (1) "foreign reciprocating country," (2) "foreign treaty country," and (3) "2007 Family Maintenance Convention."

- Would define a "foreign reciprocating country" as a foreign country (or political subdivision thereof) with respect to which the HHS Secretary has declared as having or implementing procedures to establish and enforce duties of support for residents of the United States at no cost or at low cost.
- Would define a "foreign treaty country" as a foreign country for which the 2007 Family Maintenance Convention is in force.
- Would define the term "2007 Family Maintenance Convention" to mean the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

Would make it the responsibility of the HHS Secretary to facilitate support enforcement in cases involving residents of the United States and residents of "foreign reciprocating countries" or "foreign treaty countries."

Would include "foreign treaty countries" as entities which can receive notification as to the state of residence of the person being sought for child support enforcement purposes. Would include "foreign reciprocating countries" and "foreign treaty countries" as entities that states may enter into reciprocal arrangements with for the establishment and enforcement of child support obligations.

Collection of Past-Due Support from Federal Tax Refunds

Current Law

The Federal Income Tax Refund Offset program collects past-due child support payments from the income tax refunds of noncustodial parents who have been ordered to pay child support. The program is a cooperative effort between the federal Office of Child Support Enforcement (OCSE), the Internal Revenue Service (IRS), and state CSE agencies. Under the Federal Income Tax Refund Offset program, the IRS, operating on request from a state filed through the Secretary of HHS, intercepts tax returns and deducts the amount of certified child support arrearages. The money is then sent to the state CSE agency for distribution. (Section 464)

Chairman's Mark

Would amend federal law so that the federal income tax refund offset program is available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.

State Law Requirement Concerning the Uniform Interstate Family Support Act (UIFSA)

Current Law

In the past, collecting child support across state lines was difficult. Laws varied from state to state, often causing complications that delayed the establishment and/or enforcement of child support orders. The U.S. Congress recognized this problem and mandated (pursuant to P.L. 104-193) that all states adopt UIFSA to facilitate collecting child support across state lines. (Section 466(f)) P.L. 104-193 required that the 1996 version of UIFSA be adopted. It has been adopted in every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) approved additional amendments to UIFSA in August 2001. However, there is no federal mandate for states to enact the 2001 amendments. To date, only 21 states and the District of Columbia have adopted the 2001 amendments to UIFSA. In July 2008, the NCCUSL approved amendments to the 2001 UIFSA (referred to as UIFSA 2008), to integrate the appropriate provisions of the Convention. Similarly, there is no federal mandate for states to enact UIFSA 2008. To date, only 11 states have adopted the 2008 amendments to UIFSA. States that have adopted UIFSA 2008 now stand ready to immediately implement the Convention if it is ratified.

Chairman's Mark

Would require that for a state to receive federal CSE funding, each state's UIFSA must include verbatim any amendments officially adopted as of September 30, 2008, by the National Conference of Commissioners on Uniform State Laws (NCCUSL). States would be required to adopt the 2008 amendments verbatim to ensure uniformity of procedures, requirements, and reporting forms.

Full Faith and Credit for Child Support Orders

Current Law

Federal law requires states to treat past-due child support obligations as final judgments that are entitled to full faith and credit in every state. This means that a person who has a child support order in one state does not have to obtain a second order in another state to obtain child support due should the noncustodial parent move from the issuing court's jurisdiction. Congress passed P.L. 103-383, the Full Faith and Credit for Child Support Orders Act (FFCCSOA), in 1994 because of concerns about the growing number of child support cases involving disputes between parents who lived in different states and the ease with which noncustodial parents could reduce the amount of the obligation or evade enforcement by moving across state lines. P.L. 103-383 required courts of all United States territories, states, and tribes to accord full faith and credit to a child support order issued by another state or tribe that properly exercised jurisdiction over the parties and the subject matter. P.L. 103-383 addressed the need to determine, in cases with more than one child support order issued for the same obligor and child, which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement. P.L. 103-383 restricted a state court's

ability to modify a child support order issued by another state unless the child and the custodial parent have moved to the state where the modification is sought or have agreed to the modification. The 1996 welfare reform law (P.L. 104-193) clarified the definition of a child's home state and made several revisions to ensure that the full faith and credit laws could be applied consistently with UIFSA. (28 U.S.C. §1738B)

One of the most important aspects of UIFSA is its provisions related to continuing, exclusive jurisdiction. Consistent with UIFSA's policy of "one order, one time, one place," only one court is authorized to establish or modify a child support order at a time. UIFSA provides that the court or administrative agency that issues a valid child support order retains "continuing, exclusive jurisdiction" to modify an existing order, as long as the custodial parent, the noncustodial parent, or the child remains in the issuing state. This provision limits the number of duplicate and conflicting orders, and reduces "forum" shopping by parents seeking to increase or decrease the amount of child support payments.

Chairman's Mark

Would clarify current law by stipulating that a state court that has established a child support order has continuing, exclusive jurisdiction to modify its order if the order is the controlling order and (1) the state is the child's state of residence or that of any individual contestant or (2) the contestants consent in a record or in open court that the court may continue to exercise jurisdiction to modify its order.
Would also clarify that a state no longer has continuing, exclusive jurisdiction of a child support order if the state is not the residence of the child or an individual contestant, and the contestants have not consented in a record or in open court that the court of the other state may continue to exercise jurisdiction to modify its order.

Would provide further clarification of under what conditions a state could modify a child support order.

Sec. 312 – Relief from Passport Sanctions for Certain Individuals

Current Law

P.L. 104-193 (the 1996 welfare reform law) authorized the Secretary of State to deny, revoke, or restrict passports of debtor parents whose child support arrearages exceed $5,000. Public Law 109-171 (the Deficit Reduction Act of 2005) included a provision that lowered the threshold amount from $5,000 to $2,500 for denial of a passport to a noncustodial parent who owes past-due child support. (Section 452(k))

Chairman's Mark

Would prohibit the Secretary of State from refusing to issue or revoke certain noncustodial parent's passports if the noncustodial parent (1) has an income below $100,000; (2) only owes child support arrearages (and is not incurring any new child support obligations); (3) does not owe child support for a child under age 18; (4) has been making child support payments consistently and in good faith for the last 12 months; and (5) has a current offer to work outside of the United States, an offer to interview for work

outside of the United States, a professional history of working outside of the United States, a job that requires travel outside of the United States, or is enrolled in a professional training program that requires travel outside of the United States.

Would require the Secretary of State to revoke a passport issued to a noncustodial parent upon a determination that the individual has failed to make child support payments consistently and in good faith for more than 6 months.

Sec. 313 – Child Support Enforcement Programs for Indian Tribes

Tribal Access to the Federal Parent Locator Service

Current Law

In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, pursuant to P.L. 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the CSE program provides 90% federal funding for approved CSE programs operated by tribes or tribal organizations during the first three years of full program operation, and provides 80% federal funding thereafter. Tribes and tribal organizations also may apply for two-year start-up grants which receive direct federal funding equal to 100% of approved and allowable CSE expenditures during the start-up period, As of June 2013, 51 Indian tribes or tribal organizations operated comprehensive tribal CSE programs and 9 Indian tribes or tribal organizations operated start-up tribal CSE programs.

There is no statutory authority at this time for direct tribal access to the FPLS and federal tax refund offset. However, the tribe could receive FPLS data from a state through an intergovernmental agreement. Under current federal law, the Federal Parent Locator Service (FPLS) is only allowed to transmit information in its databases to "authorized persons." (Section 453(c))

Chairman's Mark

Would provide Indian tribes or tribal organizations access to the Federal Parent Locator Service by designating them as "authorized persons."

Waiver Authority for Indian Tribes or Tribal Organizations Operating Child Support Enforcement Programs

Current Law

The federal Office of Child Support Enforcement (OCSE) is authorized to fund state demonstration grants to test and evaluate new policies and practices that are intended to improve the operation of the child support program. (Section 1115)

Chairman's Mark

Would allow Indian tribes or tribal organizations that operate a CSE program to be considered a state for purposes of authority to conduct an experimental pilot or demonstration project under the Section 1115 waiver authority to assist in promoting the objectives of the CSE program. (An Indian tribe or tribal organization that is applying for or receiving funding for a start-up CSE program would not be eligible for Section 1115 demonstration grants.)

Sec. 314 – Parenting Time Arrangements

Current Law

To promote visitation and better relations between custodial and noncustodial parents, P.L. 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) created the Access and Visitation Grants program. Funding for the program began in FY1997 with a capped entitlement of $10 million per year, with each state required to contribute 10 percent of the total program costs. Each governor designated a state agency which uses these grant funds to establish and administer programs to support and facilitate noncustodial parents' access to and visitation with their children. The statute specifies certain activities which may be funded, including: voluntary and mandatory mediation, counseling, education, the development of parenting plans, supervised visitation, neutral drop-off and pick-up, and the development of guidelines for visitation and alternative custody arrangements. The Access and Visitation Grants program funding is separate from funding for federal and state administration of the Child Support Enforcement program. According to data from the federal Office of Child Support Enforcement (OCSE), all 50 states plus the District of Columbia, Guam, Puerto Rico, and the Virgin Islands have provided access and visitation services to over a half million noncustodial parents and their families since the program became operational in FY1998. (Section 469B)

Chairman's Mark

Would require states to implement procedures for the establishment of voluntary parenting time arrangements (sometimes known as visitation) at the time a child support order is initiated for unmarried parents, just as custody arrangements are typically settled at the same time divorces are finalized. Voluntary parenting time arrangements procedures are to be implemented in cases that are not contested (for such services) and where there are safeguards against family or domestic violence, dating violence, sexual assault, or stalking.

Would require states, as part of their CSE State Plan, to provide for a process for including in the mandatory annual reviews and reports on the state CSE program (to the HHS Secretary) information regarding the policies and practices implemented by the state or which the state plans to implement to facilitate access to and visitation of children by noncustodial parents.

Subtitle B – Child Support Enforcement Taskforce

Sec. 321 – Child Support Enforcement Task Force

Current Law

No provision. (P.L. 100-485, the Family Support Act of 1988, created a Commission on Interstate Child Support to hold national conferences on interstate child support enforcement reform and to report to Congress no later than October 1, 1990 on recommendations for improvements in the system and revisions in the Uniform Reciprocal Enforcement of Support Act.)

Chairman's Mark

Would establish a Child Support Enforcement Task Force (in the executive branch) to study and evaluate the effectiveness of existing CSE programs and collection practices by state CSE agencies and make recommendations (via a report) to Congress. Would require the Task Force to be composed of 15 members: (1) the Assistant Secretary of the Administration for Children and Families (HHS); (2) 5 members appointed by the Senate, 1 selected by the Majority Leader, 1 selected by the Minority Leader, 1 selected by the Finance Committee chairman, 1 selected by the ranking member of the Finance Committee, and 1 jointly selected by the chairman and ranking member of the Finance Committee; (3) 5 members appointed by the House, 1 selected by the Speaker of the House, 1 selected by the Minority Leader, 1 selected by the Ways and Means Committee chairman, 1 selected by the ranking member of the Ways and Means Committee, 1selected jointly by the chairman and ranking member of the Ways and Means Committee; and (4) 4 members appointed by the President. Would require that the appointments of the members of the Task Force be made not later than 6 months after enactment. Would require the Task Force to hold at least three public meetings which would include: (1) CSE program administrators; (2) family court judges or judges that preside over issues related to child support enforcement, child welfare, or social services for children and their families, and organizations that represent such judges; (3) custodial parents and/or organizations that represent them, (4) noncustodial parents and/or organizations that represent them; and (5) organizations that represent fiduciary entities that are affected by CSE policies. Would transfer $2 million from the unobligated balance of funds for Section 414 of the Social Security Act (i.e., study by the Census Bureau related to the Temporary Assistance for Needy Families (TANF) program) for the Task Force to carry out its duties. The funds would remain available through FY2016. Would require the Task Force to submit its report to Congress by January 1, 2016.

Subtitle C – Effective Dates

Sec. 331 – Effective Dates

Would require the provisions to take effect on enactment, except for the UIFSA amendment and the parenting time arrangements amendment to the CSE state plan which would take effect on October 1, 2014. If states must amend state law to comply with the two amendments mentioned above, the changes

must be made no later than the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a state that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the state legislature. Would require amendments related to relief from passport sanctions and CSE programs for Indian tribes to take effect on the date that is one year after the date of enactment.