S. 1542, The Child and Family Services Improvement and Innovation Act

(Unless otherwise noted, references to Titles, Parts, Subparts, or Sections that are included in the description of current law, or proposed changes to that law, are made to the Social Security Act.)

SECTION 1. SHORT TITLE

The bill may be referred to as the Child and Family Services Improvement and Innovation Act.

TITLE I – EXTENSION OF CHILD AND FAMILY SERVICES PROGRAMS

SECTION 101. STEPHANIE TUBBS JONES CHILD WELFARE SERVICES PROGRAM

The Stephanie Tubbs Jones Child Welfare Services Program (hereafter Child Welfare Services) authorizes formula grants to states. The primary purpose of these funds is – through the provision of services to children and their families – to protect and promote the welfare of all children; prevent child abuse and neglect; permit children to remain in their own homes, or to return to those homes whenever it is safe and appropriate; promote safety, permanency, and well-being for children in foster care or those in adoptive families; and provide training, professional development, and support to ensure a well-qualified child welfare workforce.

Extension of Discretionary Funding Authorization

Current Law
The program is authorized to receive discretionary appropriations of up to $325 million in each of FY2007-FY2011. [For FY2011 it received $281 million.][1]

S. 1542
Would extend funding authorization for this program for five years (FY2012-FY2016) at the current law level.

Health Oversight for Children in Foster Care: Addressing Emotional Trauma and Overseeing Psychotropic Medication Use

Current Law
As part of its Child Welfare Services plan, each state must develop a health oversight plan to identify and respond to the health and mental health care needs of children in foster care. The plan must outline certain procedures as now listed in law.

S. 1542
As part of their health oversight plan for children in foster care, states would additionally be required to 1) outline how identified emotional trauma, associated with a child's maltreatment and removal from home, will be monitored and treated; and 2) include protocols for the appropriate use and monitoring of psychotropic medications.

[1] This level of annual Child Welfare Services program funding has been authorized beginning with FY1990. However, actual appropriations reached a high of $295 million in FY1994 and have since declined.

Addressing the Developmental Needs of Young Children

Current Law
No provision.

S. 1542
Would require each state, as part of its Child Welfare Services plan, to describe the activities it undertakes to address the developmental needs of children that it serves who are four years of age or younger; and to reduce the length of time these young children spend without a permanent family.

Data Sources Used to Report Child Deaths Due to Abuse or Neglect

Current Law
Under federal law, state child welfare agencies are required – to the maximum extent practicable – to report annually to the U.S. Department of Health and Human Services (HHS) on the number of deaths in the state due to child abuse or neglect.

S. 1542
Would require each state, as part of its Child Welfare Services plan, to describe the sources it uses to compile this information on deaths due to child abuse or neglect and, if certain specified sources are not included, would further require states to describe why this is the case and how those sources of information will be included. Specified information sources are – state vital statistics department, child death review teams, law enforcement agencies, and offices of medical examiners or coroners.

Ensuring Monthly Caseworker Visits

Current Law
Beginning with FY2007, states were required to report data to HHS on the percentage of children in foster care who received a visit from their caseworker at least once in each month they were in care and to take steps to ensure that, as of October 1, 2011, no less than 90% of those children receive a caseworker visit in each month they are in care. Further, beginning with FY2008, states were required to establish annual target percentages (as approved by HHS) to ensure that they reach this standard.

S. 1542
For FY2012 through FY2014 each state would be required to ensure that it completed no fewer than 90% of required monthly caseworker visits; for FY2015, and for every subsequent year, each state would be required to ensure that it made no fewer than 95% of those visits.

Calculation of Percentage of Monthly Caseworker Visits

Current Law
A state's percentage of monthly caseworker visits is calculated by dividing the number of children in foster care who received a visit in each month they were in care during the fiscal year by the total number of children in care during that same fiscal year.

S. 1542
A state's percentage of children visited on a monthly basis would be calculated by dividing the number of caseworker visits made on a monthly basis during the fiscal year by the total number of monthly caseworker visits required during that same fiscal year.

(Here is a simplified example of the percentage of monthly caseworker visits as currently implemented and as proposed by S. 1542. A state has 10 children in foster care for each of 12 months during the fiscal year. During that fiscal year it visits 5 of those children in each of those 12 months; however, it visits the remaining 5 in just 11 of those 12 months. Under the current calculation, a state's monthly caseworker visit percentage would be 50% -- half of the children received a visit in every month they were in care; half did not.

Under the proposal included in S. 1542, the same state's monthly caseworker percentage would be 96% -- the state was required to make a total of 120 caseworker visits and a total of 115 of those visits were made.)

Consequence to State of Failure to Meet Specified Percentage of Monthly Caseworker Visits

Current Law
States are required to provide non-federal funding of no less than 25% of total program costs in order to receive their full allotment of federal funds under the Child Welfare Services program. However, states that fail to meet their annual target percentage of children in foster care who are visited on a monthly basis are subject to reduced federal cost-sharing under the program. The amount of this reduction ranges from 1 percentage point to 5 percentage points, depending on the degree of failure by the state to meet its target percentage for monthly caseworker visits. Specifically, a state that failed to meet that target percentage by less than 10 full percentage points is required to provide no less than 26% of total program costs in non-federal funds to receive its full federal allotment of Child Welfare Services funds; a state that missed that target percentage by at least 10 but less than 20 full percentage points is required to provide no less than 28% of the total program costs; and a state that missed its target percentage by 20 full percentage points or more must provide no less than 30% of total program costs.

S. 1542
States that failed to complete at least 90% of the required monthly caseworker visits in each of FY2012 through FY2014, and at least 95% of those visits for FY2015 and every subsequent year, would be subject to reduced federal cost-sharing under the Child Welfare Services program. As under current law, the amount of this reduction would range from 1 percentage point to 5 percentage points, depending on the degree of failure by the state to meet its target monthly caseworker visit percentage.

Ensuring Majority of Caseworker Visits Occur Where the Child Lives; Consequence to State of Failure to Do So

Current Law
States are required to ensure that, as of October 1, 2011, a majority of the monthly caseworker visits with children in foster care occur where the child lives.

S. 1542
States would be required to ensure that no less than 50% of caseworker visits with children in foster care occur where the child lives. States that failed to meet the 50% target for FY2012 and every subsequent year would be subject to reduced federal cost-sharing under the Child Welfare Services program. The amount of this reduction would range from 1 percentage point to 5 percentage points, depending on the degree of failure by the state to meet this requirement.

SECTION 102. PROMOTING SAFE AND STABLE FAMILIES PROGRAM

The Promoting Safe and Stable Families Program (hereafter the Safe and Stable program) authorizes formula grants to states for provision of family support, family preservation, time-limited reunification, and adoption promotion and support services. In addition, certain funds appropriated for the Safe and Stable program must be reserved for grants under the Court Improvement Program and for other purposes, including grants to support monthly caseworker visits, and grants to regional partnerships.

Mandatory Funding Authorization for the Safe and Stable Program

Current Law
For each of FY2007-FY2010, the Safe and Stable program was authorized to receive $345 million in mandatory funds. For FY2011 it is authorized to receive $365 million in mandatory funds. [2]

S. 1542
Would authorize annual mandatory funding for the Safe and Stable program of $345 million for each of five years (FY2012-FY2016).

Discretionary Funding Authorization for the Safe and Stable Program

Current Law
For FY2007-FY2011 the Safe and Stable program is additionally authorized to receive up to $200 million annually in discretionary appropriations. *(For FY2011 Congress provided $63 million in discretionary appropriations for the program.)*

S. 1542
Would extend this current annual discretionary funding authorization of $200 million for five years (FY2012-FY2016).

Targeting Services

Current Law
One purpose of the Safe and Stable program is to "prevent child maltreatment among families at risk through the provision of supportive family services."

S. 1542
Would require each state, as part of its Safe and Stable program plan, to describe how it identifies which populations are at greatest risk of maltreatment and how services are targeted to the populations.

Definition of Family Support Services

Current Law
States are required to spend significant portions of their Safe and Stable program funds on each of four defined categories of services, one of which is family support services. Those services are defined as community-based services intended to – promote the safety and well-being of children and families; increase the strength and stability of families (including adoptive, foster, and extended families); increase parents' confidence and competence in their parenting abilities; afford children a safe, stable, and supportive family environment; strengthen parental relationships and promote healthy marriages; and enhance child development.

As part of the Mentoring Children of Prisoners program the term "mentoring" is defined as a "structured, managed program in which children are appropriately matched with screened and trained adult volunteers for one-on-one relationships, involving meetings and activities on a regular basis, intended to meet, in part, the child's needs for involvement with a caring and supportive adult who provides a positive role model."

[2] The FY2011 change was made as part of P.L. 111-242. According to the Congressional Budget Office (CBO) the changes made in that law did not permanently increase the funding provided in the annual baseline for the Safe and Stable program. Consequently, for FY2012 and each subsequent year (unless Congress acts to change this) the direct (mandatory) funding included in the CBO baseline for the Safe and Stable program is $345 million.

S. 1542
Would reorganize and restate the current law definition of family support services, maintaining all current provisions but adding that as part of enhancing a child's development, a state may provide mentoring services. Would further stipulate that the definition of "mentoring" would be as it is currently defined in the Mentoring Children of Prisoners program.

Definition of Time-Limited Family Reunification Services

Current Law
States are required to spend significant portions of their Safe and Stable program funds on each of four defined categories of services, one of which is time-limited family reunification services.

These are services and activities intended to safely permit a child and his/her parent(s) to be reunited within the first 15 months after the child was removed from the parent's home (and placed in foster care). Those services and activities are stipulated as counseling, substance abuse treatment, assistance to address domestic violence, services to provide temporary child care (including crisis nurseries), and transportation to and from any of these services.

S. 1542
Would add the following services and activities to the definition of time-limited family reunification services: peer-to-peer mentoring and support groups for parents and primary caregivers; and services and activities designed to facilitate access to and visitation of children in foster care by parents and siblings.

Uniform Definition of Indian Tribe and Tribal Organization

Current Law
For purposes of the Title IV-B, Subpart 1 Child Welfare Services program the terms "Indian tribe" and "tribal organization" have the meanings given them in Section 4 of the Indian Self-Determination and Education Assistance Act. In general, that Act defines "Indian tribe" as any federally recognized Indian tribe including Alaska Native Villages.[3] Further it generally defines a "tribal organization" as the "recognized governing body" of an Indian tribe and certain other legally established organizations.[4]

For purposes of the Title IV-B, Subpart 2 Safe and Stable program an "Indian tribe" has the meaning given it under the prior law Title IV-F JOBS program; (that program was repealed in 1996). In general, that definition includes any federally recognized tribe that has a reservation, public domain allotments, or is in Oklahoma and formerly had a reservation. Further " tribal organization" is defined as the "recognized governing body" of any Indian tribe.[5]

[3] Specifically, Section 4(e) of the Indian Self-Determination and Education Assistance Act defines "Indian tribe" as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et. seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

[4] Specifically, Section 4(l) of the Indian Self-Determination and Education Assistance Act referenced in the Child Welfare Services program defines "tribal organization" as the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant."

[5] The Title IV-F JOBS programs was a part of the prior law cash welfare program, known as Aid to Families with Dependent Children (AFDC) and, along with AFDC, was repealed by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

S. 1542
Would provide that, for purposes of the Safe and Stable program, "Indian tribe" and "tribal organization" would be defined in the same way that they are now defined in the Child Welfare Services program (i.e., the definitions given in Section 4 of the Indian Self-Determination and Education Assistance Act).

Availability of State Financial Data

Current Law
As of June 30 of each year, and as part of their Safe and Stable program plan, states must provide to HHS information on planned and actual spending for child welfare-related child and family services and on the numbers of children and families served among other things. The information is to be submitted on standard forms. HHS, in turn, is required to compile these financial reports made by states and, not later than September 30 of each year, submit the compilation to the House Ways and Means Committee and the Senate Finance Committee.

S. 1542
Would further stipulate that HHS must include in this compilation both individual state reports as well as tables that – for each element the state is required to include in these reports – show national totals derived from the reports, including national totals related to planned and actual spending by service category for the Safe and Stable program and planned spending by service category for the Child Welfare Services program.

In addition to providing these reports to the House Ways and Means Committee and the Senate Finance Committee by September 30 of each year, HHS also would be required (by that same date) to publish the compiled information on the agency's website (in a location easily accessible to the public).

GAO Report

S. 1542
Not later than 12 months after enactment of this bill, would require the Government Accountability Office (GAO) to submit a report to Congress that:
1) Identifies alternative sources of federal funding that states or other entities use to support the same purposes that are supported by any federal funds provided under Title IV-B, including those under the Child Welfare Services and Safe and Stable programs; and
2) Assesses the needs of families eligible for such services and programs, including identifying underserved communities, and providing information on supports for caseworkers to manage their caseloads in a safe and appropriate manner, the length of time families wait to receive substance abuse and other preventive services, the number of families waiting for such services, and the effect of the delay on healthy, successful reunification outcomes for families.

SECTION 103. GRANTS FOR TARGETED PURPOSES

Reservation of Mandatory Funds for Monthly Case Worker Visit Grants

Current Law
Out of the mandatory funds provided for the Safe and Stable program from FY2006-FY2011, a total of $95 million was reserved for formula grants to states to support monthly caseworker visits, including $20 million in each of FY2010 and FY2011.

S. 1542
Out of the mandatory funds provided for the Safe and Stable program, would reserve $20 million for the monthly caseworker grants in each of five years (FY2012-FY2016).

Purpose of Monthly Caseworker Grants

Current Law
States are required to use these grant funds to support monthly caseworker visits with children who are in foster care, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training and ability to access the benefits of technology.

S. 1542
Would require states to use these grant funds to improve the quality of monthly caseworker visits with children in foster care with an emphasis on improving caseworker decision-making on the safety, permanency, and well-being of children in foster care and on activities designed to increase retention, recruitment, and training of caseworkers.

Reservation of Mandatory Funds for Regional Partnership Grants to Assist Children Affected by Parental Substance Abuse

Current Law
Out of the mandatory funds provided for the Safe and Stable program from FY2007-FY2011, a total of $145 million was reserved for competitive grants to regional partnerships (to improve outcomes of children affected by parental substance abuse), including $20 million in each of FY2010 and FY2011.

S. 1542
Out of the mandatory funds provided for the Safe and Stable program, would reserve $20 million for regional partnership grants in each of five years (FY2012-FY2016).

Authority for HHS to Make Grants to Regional Partnerships

Current Law
Requires HHS to make competitive grants to regional partnerships for each of FY2007-FY2011.

S. 1542
Would require HHS to make these grants to regional partnerships for each of FY2012-FY2016.

Purpose and Focus of Grants

Current Law
Regional partnership grants are made for the purpose of improving the safety, permanence, and well-being of children who are in foster care, or who are at risk of placement in foster care, as a result of their parent or caretaker's abuse of methamphetamine or other substances. The grant authority contains numerous specific references to parents' abuse of methamphetamine, including in the section heading, application requirements for regional partnerships, factors HHS must consider when awarding grants, and in the annual report HHS is required to make to Congress on these grants.

S. 1542
In general, would retain current law focus on improving safety, permanence, and well-being outcomes of children affected by their parent's substance abuse but would strike all the specific references to "methamphetamine" and would eliminate the requirement that HHS give additional weight to applications that give specific attention to methamphetamine abuse.

Duration of Regional Partnership Grants

Current Law
HHS may award grants to regional partnerships for not less than two years and not more than five years.

S. 1542
Would retain this general grant duration but would also stipulate that HHS may extend the length of a grant made to a regional partnership for a maximum of two additional years (e.g., a regional partnership that received an initial five-year grant could apply for a two year extension and, if approved, its total grant period would be seven years.) Would additionally clarify that any regional partnership may apply for, and be awarded, more than one grant.

Matching Funds

Current Law
A regional partnership must provide non-federal matching funds of no less than 15% of the project costs in the first and second year; no less than 20% in any third or fourth years of the project; and no less than 25% in any fifth year of the project.

S. 1542
Would further stipulate that for any grant extended to a sixth year, a regional partnership must provide non-federal matching funds of no less than 30% of the project costs and for any grant extended to a seventh year, no less than 35% of the project costs.

Limit on Federal Administrative Spending

Current Law
No provision.

S. 1542
Would stipulate that HHS may use not more than five percent of the amounts reserved (or otherwise appropriated) for regional partnership grants (for each of FY2012 – FY2016) for salaries and agency administrative expenses related to administering the grants.

Reports and Evaluations

Current Law
HHS is required to prepare annual reports for Congress on – 1) the services provided and activities conducted with the funds provided to regional partnerships; 2) performance indicators established to assess the performance of those partnerships; and 3) the progress made in achieving the grant's purposes.

S. 1542
Would retain the current annual report requirement but would additionally stipulate that HHS must evaluate the effectiveness of the regional partnership grants and publish the results of the evaluation on its website in two reports, the first not later than December 31, 2012 and the second not later than December 31, 2017.

Both reports must evaluate the programs and activities conducted and services provided under the regional partnership grant program with the first report focusing on funds awarded to regional partnerships in FY2007-FY2011 and the second report focusing on awards made for FY2012-FY2016. Both evaluation reports must also include an analysis of – the grantees that were successful in achieving the goals in the application, and those that were not; grantees' achievements related to applicable performance indicators established by HHS to assess their work; the success of the regional partnership grants in addressing the needs of child-welfare-involved families who have methamphetamine or other substance abuse problems; and the success of the grants in achieving the goals of child safety, permanency and family stability.

SECTION 104. COURT IMPROVEMENT PROGRAM

Purposes of the Court Improvement Program Grants

Current Law
HHS is required to make grants to the highest court in each state to enable those courts to –
1) Conduct assessments of how they handle child welfare proceedings and to make improvements based on those assessments**,** including, providing for children's safety, permanence, and well-being as set forth in the Adoption and Safe Families Act (ASFA);
2) Ensure children's safety, permanence, and well-being needs are met in a timely and complete manner [through better collection and analysis of data]; and
3) Provide for training of judges, attorneys, and legal personnel in child welfare cases.

S. 1542
Would amend the purpose related to conducting assessments and making improvements to specifically highlight the ASFA requirements for concurrent planning (i.e., moving a child toward permanence via reunification with a parent while at the same time seeking to identify other permanent family options for the child).

In addition it would add a new purpose – to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification and adoption. This new purpose would be associated with both the basic Court Improvement grants (related to conducting assessments and making improvements) and with those related to training of court personnel in child welfare cases.

Application for Grants

Current Law
Each state's highest court may receive grants for each of the three purposes (described above) but must submit a separate application for each purpose for which they wish to receive funds. Certain application requirements apply to all grants and certain application requirements apply only to the grants to support better data collection and analysis, or to the training grants.

S. 1542
Would provide that a court need only submit a single application to receive funds associated with one or more Court Improvement Program purposes. The court would need to indicate in application for which one or more of the specific purposes the application was being made and would be required to meet any current law application requirements related to receiving funds for a given purpose.

Allotment of Court Improvement Program Funds

Current Law
For each of FY2006-FY2011, a highest state court was entitled to a base allotment of $85,000 for each Court Improvement Program grant application it successfully submitted in a given year, plus a portion of any remaining funds provided for the specific grant (based on the share of individuals under the age of 21 in its state compared to all individuals under that age in every state where the highest court has an approved Court Improvement Program application for that kind of Court Improvement Program grant.) *(This means, for example, that a highest state court that successfully submitted three grant applications – received a base allotment of $255,000 – plus a portion of the remaining grant funds that was specified for each of the three grants.)*

S. 1542
For each of FY2012-FY2016, would entitle a highest state court to the same allotment of funds based on the number of purposes (maximum of three) it included in its single application. *(This means, for example, that a highest state court with a successful single application requesting funds for all three purposes*[6] *would be entitled to a base allotment of $255,000 plus a portion of remaining grant funds that was specified for each of the three purposes.)*

Funding by Grant Purpose

Current Law
Thirty million dollars in mandatory Safe and Stable funds are reserved for the Court Improvement Program *plus* 3.3% of any discretionary funding provided to the program. [The FY2011 funding reserved totaled $32 million].The statute divided those funds as follows:
Out of the mandatory funds reserved for court improvement
-- $10 million was provided for basic grants (related to the purposes of conducting assessments and making improvements to court handling of child welfare cases);
-- $10 million was for data grants (related to improving outcomes for children through better collection and analysis of data); and
-- $10 million was for training grants (related to training court personnel in child welfare cases).

Finally, all funds reserved out of any discretionary appropriations for the Safe and Stable program were provided for purposes associated with the basic grants.

S. 1542
Would maintain the current level of funding reserved ($30 million in mandatory funds plus 3.3% of any discretionary Safe and Stable funding). Would divide those funds (for each of FY2012-FY2016) as follows: Out of the mandatory funds reserved for court improvement
-- $ 9 million would be provided for basic program purposes (including for conducting assessments and making improvements to child welfare proceedings and for increasing engagement of families in those processes);
-- $10 million would be provided for purposes related to improved collection and use of data;
-- $10 million would be provided for training purposes (related to training court personnel in child welfare cases and increasing engagement of families); and
-- $1 million would be provided for competitive grants to highest tribal courts.

Finally, as under current law, all funds reserved out of any discretionary appropriations made for the Safe and Stable program are reserved for the basic purposes of the Court Improvement Program (including for conducting assessments and making improvements to child welfare proceedings and for increasing engagement of families in those processes).

Tribal Highest Courts

Current Law
Tribes do not receive Court Improvement Program funds.

[6] The purpose of assessing court handling of child welfare proceedings and the purpose of improving handling of those proceedings is given in the statue as two purposes. However, under current law, courts applying for a "basic" Court Improvement Program grant are expected to use those funds for both of those purposes and they received a single base allotment of $85,000 tied to those purposes. The effect of S. 1542 would be the same, i.e., a state choosing one of the two "basic" Court Improvement Program purposes must choose the other as well and it would receive only one base allotment of $85,000 for both of those purposes.

S. 1542
Would make certain tribal courts eligible for Court Improvement Program grants. Courts eligible to compete for these program funds would be the highest courts of an Indian tribe or tribal consortia that 1) is operating an approved Title IV-E Foster Care and Adoption Assistance Program; 2) has been awarded a tribal implementation grant (indicating that it is seeking to implement a Title IV-E plan); or 3) has a court responsible for proceedings related to foster care or adoption.

Cost-sharing Provision

Current Law
For each of FY2002-FY2011, a highest state court must provide non-federal funds to support no less than 25% of the total Court Improvement Program activities.

S. 1542

Would extend this same cost sharing provision for state highest courts for each of FY2012-FY2016.

SECTION 105. DATA STANDARDIZATION FOR IMPROVED DATA MATCHING

Common Provisions Related to Data Standardization; Rules to Be Issued: Requirement for Rules

Current Law
Title IV-B of the Social Security Act authorizes two state formula grant programs, the Child Welfare Services program (Subpart 1) and the Safe and Stable program (Subpart 2). In addition (or as part of those programs) it authorizes, in those same subparts, several competitive grant programs or funding streams under which grantees (which may be public or private) are required to report data. These include Family Connection Grants, Regional Partnership Grants (under the Safe and Stable program) and Mentoring Children of Prisoners grants.

S. 1542
Development of Rules: Under a new Subpart 3, would require HHS to issue a rule designating standard data elements for any category of information required to be reported under Title IV-B and would also require the agency to develop a rule providing for standard data reporting under Title IV-B. The rules would need to be developed by HHS in consultation with an interagency workgroup established by the Office of Management and Budget (OMB) and with consideration of state perspectives.

Requirements for Rules on Standard Data Elements: To the extent practicable, the standard data elements required by the rule would need to be non-proprietary; permit data to be exchanged and used (i.e., interoperable); and incorporate the interoperable standards developed and maintained by other recognized bodies (as named in the bill).

Requirements for Rules on Data Reporting Standards: To the extent practicable, the data reporting standards required by the rule would need to incorporate a widely-accepted, non-proprietary, searchable, computer-readable format; be consistent with and implement applicable accounting principles; be capable of being continually upgraded as necessary; and incorporate existing nonproprietary standards, such as the eXtensible Business Reporting Language.

*Effective Date for Data Standardization Requirements***:** The amendments related to data standardization would take effect on October 1, 2012 and must apply to information required to be reported on or after such date.

SECTION 106. PROVISIONS RELATING TO FOSTER CARE OR ADOPTION

Educational Stability for Children in Foster Care

Current Law
Requires that a state have a written education stability plan for each child in foster care that includes assurances that – the child's placement in foster care takes into account the appropriateness of the current educational setting and the proximity to the school where the child is enrolled at the time of the placement; and that the state child welfare agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which he/she is enrolled at the time of placement or, if this is not in the child's best interest, that the child is provided immediate and appropriate enrollment in a new school with all of his/her educational records supplied to that school.

S. 1542
Would amend current law to ensure that educational stability planning provisions apply to a child's initial placement in foster care as well as any subsequent placements during the child's stay in foster care.

Monitoring Possible Identify Theft of Youth in Foster Care

Current Law
States are required to have procedures in place to periodically review the status of each child in foster care, including procedures to address a range of requirements stipulated in statute.

The Fair Credit Reporting Act defines what kind of information may (and may not) be included in a credit report ("consumer report") and also grants each consumer the right to at least one free consumer report annually.[7]

S. 1542
Would add that a state's case review system must include procedures to ensure that each youth in foster care who is age 16 or older receives a copy of his/her credit report each year until he or she is discharged from care. The report would need to be provided without cost to the youth and the state would need to ensure that the youth received assistance in interpreting the report and resolving any inaccuracies in the report, (including, when possible, assistance from any court-appointed advocate for the child).

Documentation of Required Spending Tied to State Adoption Assistance Savings

Current Law
States are required to enter into an adoption assistance agreement with the adoptive parents of any child that the state determines has "special needs." Not all children determined to have special needs are currently Title IV-E eligible. However, beginning with FY2010, expanded eligibility for Title IV-E adoption assistance is being phased in so that as of FY2018, any adopted child who is determined by a state to have "special needs" will be eligible for this assistance. States are required to spend any savings they realize, due to this expanded federal eligibility criteria, on child welfare-related child and family services (authorized under Title IV-B or Title IV-E), which include post-adoption services.

S. 1542
Would require each state to document how it spent any adoption assistance savings that results from this expanded federal eligibility, including spending on post-adoption services.

[7] For more information on the Fair Credit Report Act see CRS Report RL31666, *Fair Credit Reporting Act: Rights and Responsibilities*, by Margaret Mikyung Lee.

Reporting on Percentage of Monthly Caseworker Visits Completed

Current Law
HHS must submit an annual report to Congress that shows the performance of each state on certain child welfare outcome measures. Beginning with the report for FY2007, the report must include state-by-state data on the percentage of children in foster care who were visited on a monthly basis by their caseworker and the percentage of those monthly caseworker visits that took place where the child lived.

S. 1542
Would additionally require this report to include state-by-state data on the number of monthly caseworker visits each state completed as a share of its total required monthly caseworker visits).

SECTION 107. EFFECTIVE DATE

Except for the data standardization provisions, (which have an October 1, 2012 effective date), the amendments made by Title I of this bill would generally be effective on October 1, 2011. They would apply to payments under Title IV-B or Title IV-E beginning with the first quarter of FY2012 without regard to whether regulations implementing the amendments are promulgated by that date. However, if HHS were to determine that a state needed to pass legislation (other than an appropriations act) to allow a state to come into compliance with a plan requirement(s) added by the bill, a state may have additional limited time (specified in the bill) to come into compliance.

TITLE II – CHILD WELFARE DEMONSTRATION PROJECTS

SECTION 201. RENEWAL OF AUTHORITY TO APPROVE DEMONSTRATION PROJECTS DESIGNED TO TEST INNOVATIVE STRATEGIES IN STATE CHILD WELFARE PROGRAMS

Limitation on Authority to Approve Child Welfare Demonstration (a.k.a. Waiver) Projects

Current Law
HHS may waive certain requirements of Title IV-B and Title IV-E to permit a state to conduct a child welfare demonstration project. For each of FY1998 through March 31, 2006, HHS was authorized to annually grant such waivers for as many as ten demonstration (a.k.a. "waiver") projects annually.

S. 1542
Would extend the authority for HHS to grant up to ten new child welfare demonstration projects annually for each of three years, FY2012-FY2014.

Duration of Demonstration Projects; Definite End to All Projects

Current Law
A demonstration project may not be conducted for more than five years unless HHS determines that it should continue beyond five years.

S. 1542
Would maintain this same provision with the stipulation, however, that no child welfare demonstration project (regardless of when it was first approved) may be conducted after September 30, 2019.

State Eligibility to Conduct a Demonstration Project

Current Law
HHS may not approve a state to conduct a child welfare demonstration project if that state fails to provide health insurance coverage to any child with special needs for whom the state has an agreement in place with the child's adoptive parents to provide adoption assistance.

S. 1542
Would add the following conditions of eligibility, for any state seeking to implement a new demonstration project (i.e., a project that would be first approved in any of FY2012-FY2014). The state must:

1) Demonstrate that its proposed demonstration project will meet one or more of the following identified goals:

- Reduce the lengths of stay in foster care for children of all ages and promote successful transitions to adulthood for older youth.
- Increase positive outcomes for children who remain in their own homes and communities.
- Prevent child abuse and neglect, as well as re-entries to foster care.

2) Provide a written description of changes the state has made, or will make, to its child welfare policies and procedures to enable the state to successfully achieve the goal(s) of its demonstration project.

3) Implement at least two of ten child welfare program improvement policies (specified in the bill). At least one of these program improvement policies must be new to the state (i.e., not have been implemented before the date the state submits its demonstration project application.) The state must demonstrate in its application that any new policy (or policies) will be implemented by the later of three years from the date on which it submits its application of the demonstration project or two years from the date when HHS approves the demonstration project.

Permission to Discontinue Project Authority if Improvement Policies Not Implemented

Current Law
No provision.

S. 1542
Would permit HHS to terminate the authority of a state to conduct a child welfare demonstration project, if within three years of granting that approval, HHS determines that the state has not made significant progress in implementing the child welfare program improvement policies it cited in its application for that project

Long-Term Therapeutic Family Treatment Centers /Addressing Domestic Violence

Current Law
If an appropriate application for such a project is received, HHS must *consider* authorizing child welfare demonstration projects that identify and address barriers to timely adoptions out of foster care; identify and address parental substance abuse issues that endanger children and result in their placement in foster care; and address kinship care.

S. 1542
Would strike this current law provision. Would provide, however, that any state seeking to implement a demonstration project meeting any of the goals (specified above) may choose to establish a program that would

- identify and address domestic violence that endangers children and results in their placement in foster care; or
- permit federal (Title IV-E) foster care maintenance payments to be made on behalf of a child residing in a long-term therapeutic family treatment center.

For purposes of this provision, would define a "long-term therapeutic family treatment center" as a program licensed or certified by the state that "enables parents and their children to live together in a safe environment" for not less than six months and that provides, either on-site or by referral, the following services or activities: substance abuse treatment, children's early intervention, family counseling, legal, nursery and preschool, parenting skills training, pediatric care, prenatal care, sexual abuse therapy, relapse prevention, transportation, and job or vocational training (or classes leading to a high school diploma or a GED).

Child Welfare Program Improvement Policies

Current Law
There is no provision describing "child welfare program improvement policies."

As of October 2009, states are permitted to choose to offer kinship guardianship assistance to eligible children under their Title IV-E program. Further, as of October 2010, they are permitted to amend that same plan to enable provision of federal Title IV-E support to eligible youth after their 18th birthday (and up to their 21st birthday).

States are required to establish a health oversight plan relevant to all children in foster care, and to provide certain transition planning for older youth in care, including those about to leave care without placement in a permanent family. Further they must make reasonable efforts to place siblings removed from their homes in the same foster, adoptive, or guardianship settings (whenever this is not contrary to safety or well-being of one of the siblings).

S. 1542
Would describe ten child welfare program improvement policies, as follows:

1) Establish a bill of rights for infants, children, and youth, who are in foster care, which must outline protections to be provided and procedures for ensuring the protections are provided, and must be widely shared.

2) Develop and implement a plan to meet the health and mental health needs of infants, children, and youth, who are in foster care, which ensures child-specific provision of health and mental health services that are comprehensive, appropriate, and consistent.

3) Opt to provide kinship guardianship assistance under the state's Title IV-E plan.

4) Opt under a State plan for purposes of the provision of foster care maintenance payments, adoption assistance payments and kinship guardianship payments so as to include individuals who have not attained age 21

5) Develop and implement a plan to ensure appropriate use of congregate care and that reduces its use for children and youth in foster care.

6) Substantially increase (above an FY2008 baseline) the number of cases where siblings (whether infants, children, or youth) who are in out-of-home care are placed in the same foster care, kinship guardianship, or adoptive placements.

7) Develop and implement a plan to improve the recruitment and retention of high quality foster family homes, which may include increased maintenance payments, expanded training, and other supports for families that provide foster care.

8) Establish procedures to aid youth preparing to transition out of foster care, for example, by arranging for participation in age-appropriate extra-curricular activities; providing appropriate access to cell phones, computers, and opportunities to obtain a driver's license; providing notification of where siblings that are in foster care are placed (or, if they are not in care, where siblings are located) as well as counseling and financial support for post-secondary education.

9) Include in the state's Title IV-E plan a description of state procedures for ensuring that a youth in foster care who has attained 16 years of age is engaged in discussions (including during transition planning activities required under current law) that explore whether the youth wishes to reconnect with his or her biological family members (including parents, siblings, grandparents or others) and, if so, that the skills and strategies needed to allow this to happen safely are discussed, as well as guidance and services to manage any desired reconnections. These procedures must also seek to include biological family members in these reconnection efforts when appropriate.

10) Establish one or more of the following programs designed to prevent infants, children, and youth from entering foster care or to provide permanency for infants, children and youth in foster care:

- Intensive family finding
- A kinship navigator program.
- Family counseling (e.g., family group decision-making or in-home peer support for families).
- A comprehensive family-based substance abuse treatment program.
- A program to identify and address domestic violence that endangers infants, children, and youth and puts them at risk of entering foster care.
- A mentoring program.

Definition of Youth

Current Law
No provision.

S. 1542
For purposes only of the paragraph in the bill describing "child welfare program improvement policies," would define "youth" to mean any individual who is at least 12 years of age but who has not attained the age at which he or she is no longer considered a "child" under the state's Title IV-E or Title IV-B plans (i.e., at least up to age 18 but possibly up to age 21).

Consideration of Demonstration Project Effect

Current Law
States are periodically subject to a Child and Family Services Review (CFSR) to determine whether they are in substantial compliance with federal child welfare policies. States that are determined not to be in substantial conformity with those policies must develop and implement a Program Improvement Plan, which must be approved by HHS.

S. 1542
Before approving a state's child welfare demonstration project application, would require HHS to consider the effect of such an approval on the ability of that state to implement any approved Program Improvement Plan (PIP) in the state.

States not required to describe random assignment procedures; HHS not permitted to consider state use of random assignment in approving a demonstration project

Current Law
States seeking to implement a demonstration project must send an application to HHS that meets specific application requirements. Among these, a state must provide in the application that, where appropriate, children and families will be randomly assigned to a group that will receive the demonstration project services or to a group that will not receive those services.

S. 1542
Would strike this application requirement related to random assignment from the law. Separately would prohibit HHS from taking into consideration the fact that a state is using (or not using) a random assignment design as part of its decision to approve or disapprove of a child welfare demonstration project.

Accounting of Funds Spent on Demonstration Project Services Prior to the Demonstration

Current Law
States must provide certain information in their application for a child welfare demonstration project.

S. 1542
Would require that states provide an accounting of any "additional" federal, state, or local funds – as well as any private investments made in coordination with the state – that were used in the two years preceding the state's application to provide the services the state proposes to offer under the demonstration project. And further that the state would provide this same spending information for each year of an approved demonstration project.

Evaluation of the Demonstration Project

Current Law
Each state that conducts a demonstration project must evaluate the effectiveness of the project and the evaluation must be done by an independent contractor. HHS must approve the evaluation design and that design must permit comparison of methods of service delivery under the demonstration project with those otherwise used under the states plan(s); a comparison of outcomes for children and families (and groups of children and families) served under the project with outcomes of those not served by the project; and any other information that HHS would require.

S. 1542
For technical (drafting) reasons, would restate these evaluation design requirements retaining each of them.

Reports

Current Law
A state must provide interim and final evaluation reports to HHS at the times and in the manner that HHS requires.

S. 1542
Would strike this current evaluation report requirement and would instead require each state conducting a demonstration project to submit periodic reports to HHS on specific programs, activities, and strategies used to improve outcomes for infants, children, youth, and families, including the results achieved and without regard to whether those children were prevented from entering foster care, were in foster care, or had been moved from foster care to permanent families. At the same time it submitted such a report to HHS (and each time it did so), the state would further be required to post a copy of the report on the state child welfare agency's website.

Further, would require HHS to submit to the House Committee on Ways and Means and the Senate Finance Committee: 1) Periodic reports (based on state-supplied periodic reports) regarding programs, strategies, and activities to improve outcomes for infants, children, youth and families in states with approved demonstration projects and the results achieved. 2) A report based on the results of state demonstration project evaluation reports that analyzes the results and makes recommendations for administrative or legislation changes that HHS determines appropriate.

Inclusion of Tribes

Current Law
No provision.

S. 1542
For purposes of seeking and receiving authority to operate a child welfare demonstration project, would consider as a "state" any Indian tribe, tribal organization or consortium of tribes that has chosen to operate a Title IV-E program under the Social Security Act.

TITLE III – BUDGET PROVISIONS

Current Law
The Statutory Pay-As-You-Go-Act of 2010 generally requires that direct spending and revenue legislation (referred to as PAYGO legislation) enacted into law not increase the deficit. As a general matter, the budgetary effects are expected to reflect cost estimates prepared by the Congressional Budget Office (CBO) as included in statements inserted into the Congressional Record by the Chairman of the Budget Committee. If this procedure is not followed for a PAYGO measure, then the budgetary effects of the measure are determined by the Office of Management and Budget (OMB).[8]

S. 1542
Would stipulate that: For purposes of complying with the "Statutory Pay-As-You-Go-Act of 2010," the budgetary effect of this bill must be determined by referring to the latest statement titled "Budgetary Effects of PAYGO Legislation" as submitted for printing in the *Congressional Record* by the Chairman of the Senate Budget Committee, but only if such a statement has been submitted prior to a vote on the passage of the bill.

[8] For more information, see CRS report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.