

CONGRESS PASSES ADOPTION/FOSTER CARE REFORM LAW

In 1997 Congress enacted the Adoption and Safe Families Act.

Among other things, the law includes, in Section 305, a three year extension of Subpart 2 of Title IV-B of the Social Security Act, formerly known as the the Family Preservation and Support Services Act and now renamed as "Promoting Safe and Stable Families."

In extending Subpart 2 of Title IV-B, Congress also extended for three more years the federal grant program to improve the courts' handling of child abuse and neglect cases. Section 305(a)(2) of the law extends the \$10,000,000 annual set aside for the court improvement grants through federal fiscal year 2001. Section 305(a)(3) extends the program itself (set forth in Section 13712 of the Omnibus Budget Reconciliation Act of 1993, 42 U.S.C. 670 note) for the three additional years.

There are many other amendments in the new law that will affect court improvement efforts, legal/casework practice, and the need for state legislative reform in child protection cases.

[Click here](#) to download the Adoption and Safe Families Act.

Here are some highlights:

REASONABLE EFFORTS

The new law redefines "reasonable efforts" to (a) emphasize children's health and safety, (b) require states to specify situations when services to prevent foster placement and reunify families are not required, and (d) reaffirm certain specific situations of severe inflicted harm to children (already specified in the Child Abuse Prevention and Treatment Act) where reasonable efforts to preserve families are not required.

SAFETY LANGUAGE ADDED TO CASE PLAN AND REVIEW REQUIREMENTS

Federal statutory language concerning case plans and six month reviews is amended to ensure that the issue of child safety is specifically addressed.

DEADLINES FOR INITIATING TERMINATION OF PARENTAL RIGHTS

States are required to initiate or join termination of parental rights proceedings for children who have been in foster care for 15 of the most recent 22 months. In certain cases, states are required to initiate such proceedings upon placement (i.e., where the parent committed murder, involuntary manslaughter, or felony assault resulting in serious bodily injury of a sibling). Exceptions to this requirement include (a) at the option of the state, the child is cared for by a relative, (b) the state agency has documented that there is a compelling reason that filing a termination petition is not in the best interest of the child, and (c) the state has not delivered

services it deems necessary for the child's safe return, in cases where reunification efforts are required (see above).

Note: In calculating whether 15 months have passed since the child's entry into foster care (and a termination petition is therefore required), the state is now to refer to the earliest of the following two dates: the date of the first judicial finding that the child has been subjected to abuse or neglect or 60 days after the child is removed from home. Thus, for example, if the adjudication of child abuse or neglect takes place one month after the child's removal from home, the state will have 16 months after the child's removal to file a termination petition (or join a termination proceeding filed by others) after the child's removal. (Of course, this time limit will not apply if an exception applies, as described in the above paragraph.) For example, if the adjudication takes longer than 60 days from the child's removal, the state would have 15 months plus 60 days after the child's removal from home to file or join in the termination petition.

NOTICE AND OPPORTUNITY TO BE HEARD FOR FOSTER PARENTS, PREADOPTIVE PARENTS, AND CARETAKER RELATIVES

States are required to provide notice and the opportunity to be heard -- to foster parents, preadoptive parents, and relatives caring for children -- in all reviews and hearings. This does not require, however, that foster parents, preadoptive parents, and relative caretakers be made parties to the review or hearing.

CASE PLANS TO ADDRESS AGENCY EFFORTS TO ACHIEVE PERMANENCY

Where the permanency plan for a child is adoption or placement in another permanent home, case plans are to document steps the agency is taking to secure such permanent home.

EARLIER AND MORE DECISIVE PERMANENCY HEARINGS

In place of the current requirement that states hold "dispositional" hearings within 18 months after placement of the child in foster care, the law (a) renames the hearing a "permanency" hearing, (b) tightens the statutory language to require that the hearing includes a decision whether to return the child home, initiate termination proceedings, or place the child in another permanent living arrangement, and (c) requires that the hearing take place within 12 months of the child's "original placement." Note: The 12 month period begins to run not from the time of the child's actual removal from home, but rather from the earliest of the following: a judicial finding of abuse or neglect OR 60 days after the child's removal from home. The 12 month period for the permanency hearing begins to run at the same time the 15 month period for initiating termination of parental rights proceedings begins to run. See above.

TIME-LIMITED FAMILY REUNIFICATION SERVICES

Services to reunify families funded under Subpart 2 of Title IV-B of the Social Security Act are to extend no more than 15 months after placement. (The time period begins to run at the same time as the time period for termination petitions and permanency hearings.) These services include counseling, substance abuse treatment services, domestic violence services, temporary child care and related services including crisis nurseries, and transportation for such services.

OTHER AMENDMENTS

There are many other important amendments, not described here, that less directly affect the courts.