

OLDER YOUTH PROVISIONS OF DIVISION X OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2021— SUPPORTING FOSTER YOUTH AND FAMILIES THROUGH THE PANDEMIC

The full text of the law can be found here:

<https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR133SA-RCP-116-68.pdf>

SEC. 1. SHORT TITLE.

This division may be cited as the “Supporting Foster Youth and Families through the Pandemic Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) COVID–19 PUBLIC HEALTH EMERGENCY.—The term “COVID–19 public health emergency” means the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act, entitled “Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus”.¹

(2) COVID–19 PUBLIC HEALTH EMERGENCY PERIOD.—The term “COVID–19 public health emergency period” means the period beginning on April 1, 2020 and ending with September 30, 2021.

(3) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

SEC. 3. CONTINUED SAFE OPERATION OF CHILD WELFARE PROGRAMS AND SUPPORT FOR OLDER FOSTER YOUTH.

(a) FUNDING INCREASES.—

(1) INCREASE IN SUPPORT FOR CHAFEE PROGRAMS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$400,000,000 for fiscal year 2021, to carry out section 477 of the Social Security Act, in addition to any amounts otherwise made available for such purpose.

(2) EDUCATION AND TRAINING VOUCHERS.—Of the amount made available by reason of paragraph (1) of this subsection, not less than \$50,000,000 shall be reserved for the provision of vouchers pursuant to section 477(h)(2) of the Social Security Act.

¹ Below is the text of the document, entitled *Determination that a Public Health Emergency Exists*

As a result of confirmed cases of 2019 Novel Coronavirus (2019-nCoV), on this date and after consultation with public health officials as necessary, I, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority vested in me under section 319 of the Public Health Service Act, do hereby determine that a public health emergency exists and has existed since January 27, 2020, nationwide.

01/31/2020

/s/

Date

Alex M. Azar II

<https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx> This declaration was most recently renewed on January 21, 2021 and can be found here:

<https://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-07Jan2021.aspx>

(3) APPLICABILITY OF TECHNICAL ASSISTANCE TO ADDITIONAL FUNDS.—

(A) IN GENERAL.—Section 477(g)(2) of the Social Security Act shall apply with respect to the amount made available by reason of paragraph (1) of this subsection as if the amount were included in the amount specified in section 477(h) of such Act.

(B) RESERVATION OF FUNDS.—

(i) IN GENERAL.—Of the amount to which section 477(g)(2) of the Social Security Act applies by reason of subparagraph (A) of this paragraph, the Secretary shall reserve not less than \$500,000 to provide technical assistance to a State implementing or seeking to implement a driving and transportation program for foster youth.

(ii) PROVIDER QUALIFICATIONS.—The Secretary shall ensure that the entity providing the assistance has demonstrated the capacity to—

(I) successfully administer activities in 1 or more States to provide driver's licenses to youth who are in foster care under the responsibility of the State; and

(II) increase the number of such foster youth who obtain a driver's license.

(4) INAPPLICABILITY OF STATE MATCHING REQUIREMENT TO ADDITIONAL FUNDS.—In making payments under subsections (a)(4) and (e)(1) of section 474 of the Social Security Act from the additional funds made available as a result of paragraphs (1) and (2) of this subsection, the percentages specified in subsections (a)(4)(A)(i) and (e)(1) of such section are, respectively, deemed to be 100 percent.

(5) MAXIMUM AWARD AMOUNT.—The dollar amount specified in section 477(i)(4)(B) of the Social Security Act through the end of fiscal year 2022 is deemed to be \$12,000.

(6) INAPPLICABILITY OF NYTD PENALTY TO ADDITIONAL FUNDS.—In calculating any penalty under section 477(e)(2) of the Social Security Act with respect to the National Youth in Transition Database (NYTD) for April 1, 2020, through the end of fiscal year 2022, none of the additional funds made available by reason of paragraphs (1) and (2) of this subsection shall be considered to be part of an allotment to a State under section 477(c) of such Act.

(b) MAXIMUM AGE LIMITATION ON ELIGIBILITY FOR ASSISTANCE.—During fiscal years 2020 and 2021, a child may be eligible for services and assistance under section 477 of the Social Security Act until the child attains 27 years of age, notwithstanding any contrary certification made under such section.

(c) SPECIAL RULE.—With respect to funds made available by reason of subsection (a) that are used during the COVID-19 public health emergency period to support activities due to the COVID-19 pandemic, the Secretary may not require any State to provide proof of a direct connection to the pandemic if doing so would be administratively burdensome or would otherwise delay or impede the ability of the State to serve foster youth.

(d) PROGRAMMATIC FLEXIBILITIES.—During the COVID-19 public health emergency period:

(1) SUSPENSION OF CERTAIN REQUIREMENTS UNDER THE EDUCATION AND TRAINING VOUCHER PROGRAM.—The Secretary shall allow a State to waive the applicability of the requirement in section 477(i)(3) of the Social Security Act that a youth must be enrolled in a postsecondary education or training program or making satisfactory progress toward completion of that program if a youth is unable to do so due to the COVID-19 public health emergency.

(2) AUTHORITY TO USE VOUCHERS TO MAINTAIN TRAINING AND POSTSECONDARY EDUCATION.—A voucher provided under a State educational and training voucher program under section 477(i) of the Social Security Act

may be used for maintaining training and postsecondary education, including less than full-time matriculation costs or other expenses that are not part of the cost of attendance but would help support youth in remaining enrolled as described in paragraph (1) of this subsection.

(3) AUTHORITY TO WAIVE LIMITATIONS ON PERCENTAGE OF FUNDS USED FOR HOUSING ASSISTANCE AND ELIGIBILITY FOR SUCH ASSISTANCE.— Notwithstanding section 477(b)(3)(B) of the Social Security Act, a State may use—

- (A) more than 30 percent of the amounts paid to the State from its allotment under section 477(c)(1) of such Act for a fiscal year, for room or board payments; and
- (B) any of such amounts for youth otherwise eligible for services under section 477 of such Act who—
 - (i) have attained 18 years of age and not 27 years of age; and
 - (ii) experienced foster care at 14 years of age or older.

(4) AUTHORITY TO PROVIDE DRIVING AND TRANSPORTATION ASSISTANCE.—

(A) **USE OF FUNDS.**—Funds provided under section 477 of the Social Security Act may be used to provide driving and transportation assistance to youth described in paragraph (3)(B) who have attained 15 years of age with costs related to obtaining a driver’s license and driving lawfully in a State (such as vehicle insurance costs, driver’s education class and testing fees, practice lessons, practice hours, license fees, roadside assistance, deductible assistance, and assistance in purchasing an automobile).

(B) **MAXIMUM ALLOWANCE.**—The amount of the assistance provided for each eligible youth under subparagraph (A) shall not exceed \$4,000 per year, and any assistance so provided shall be disregarded for purposes of determining the recipient’s eligibility for, and the amount of, any other Federal or federally-supported assistance, except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or federally-supported programs.

(C) **REPORT TO THE CONGRESS.**—Within 6 months after the end of the expenditure period, the Secretary shall submit to the Congress a report on the extent to which, and the manner in which, the funds to which subsection (a)(3) applies were used to provide technical assistance to State child welfare programs, monitor State performance and foster youth outcomes, and evaluate program effectiveness.

SEC. 4. PREVENTING AGING OUT OF FOSTER CARE DURING THE PANDEMIC.

(a) ADDRESSING FOSTER CARE AGE RESTRICTIONS DURING THE PANDEMIC.—A State operating a program under part E of title IV of the Social Security Act may not require a child who is in foster care under the responsibility of the State to leave foster care solely by reason of the child’s age. A child may not be found ineligible for foster care maintenance payments under section 472 of such Act solely due to the age of the child or the failure of the child to meet a condition of section 475(8)(B)(iv) of such Act before October 1, 2021.

(b) RE-ENTRY TO FOSTER CARE FOR YOUTH WHO AGE OUT DURING THE PANDEMIC.—A State operating a program under the State plan approved under part E of title IV of the Social Security Act (and without regard to whether the State has exercised the option provided by section 475(8)(B) of such Act to extend assistance under such part to older children) shall—

- (1) permit any youth who left foster care due to age during the COVID–19 public health emergency to voluntarily re-enter foster care;

- (2) provide to each such youth who was formally discharged from foster care during the COVID–19 public health emergency, a notice designed to make the youth aware of the option to return to foster care;
- (3) facilitate the voluntary return of any such youth to foster care; and
- (4) conduct a public awareness campaign about the option to voluntarily re-enter foster care for youth who have not attained 22 years of age, who aged out of foster care in fiscal year 2020 or fiscal year 2021, and who are otherwise eligible to return to foster care.

(c) PROTECTIONS FOR YOUTH IN FOSTER CARE.—A State operating a program under the State plan approved under part E of title IV of the Social Security Act shall—

- (1) continue to ensure that the safety, permanence, and well-being needs of older foster youth, including youth who remain in foster care and youth who age out of foster care during that period but who re-enter foster care pursuant to this section, are met; and
- (2) work with any youth who remains in foster care after attaining 18 years of age (or such greater age as the State may have elected under section 475(8)(B)(iii) of such Act) to develop, or review and revise, a transition plan consistent with the plan referred to in section 475(5)(H) of such Act, and assist the youth with identifying adults who can offer meaningful, permanent connections.

(d) AUTHORITY TO USE ADDITIONAL FUNDING FOR CERTAIN COSTS INCURRED TO PREVENT AGING OUT OF, FACILITATING RE-ENTRY TO, AND PROTECTING YOUTH IN CARE DURING THE PANDEMIC.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, a State to which additional funds are made available as a result of section 3(a) may use the funds to meet any costs incurred in complying with subsections (a), (b), and (c) of this section.

(2) RESTRICTIONS.—

(A) The costs referred to in paragraph (1) must be incurred after the date of the enactment of this section and before October 1, 21 2021.

(B) The costs of complying with subsection (a) or (c) of this section must not be incurred on behalf of children eligible for foster care maintenance payments under section 472 of the Social Security Act, including youth who have attained 18 years of age who are eligible for the payments by reason of the temporary waiver of the age requirement or the conditions of section 475(8)(B)(iv) of such Act.

(C) A State shall make reasonable efforts to ensure that eligibility for foster care maintenance payments under section 472 of the Social Security Act is determined when a youth remains in, or re-enters, foster care as a result of the State complying with subsections (a) and (c) of this section.

(D) A child who re-enters care during the COVID–19 public health emergency period may not be found ineligible for foster care maintenance payments under section 472 of the Social Security Act solely due to age or the requirements of section 475(8)(B)(iv) of such Act before October 1, 2021.

(e) TERMINATION OF CERTAIN PROVISIONS.—The preceding provisions of this section shall have no force or effect after September 30, 2021.