

# Report for Congress

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## Child Welfare Issues in the 108<sup>th</sup> Congress

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# Child Welfare Issues in the 108<sup>th</sup> Congress

## Summary

Child welfare services protect children who have been abused or neglected or are at risk of maltreatment. These services take various forms, ranging from counseling and other supports for parents, which are intended to prevent child abuse and neglect and improve child well-being, to removal of the children from home. At the most extreme, these services include termination of parental rights and placement of the children for adoption. States have the primary responsibility for designing and administering child welfare services. However, the federal government supports these services with significant funds and requires states to comply with certain requirements in order to receive this money.

An estimated 879,000 children were the victims of child abuse or neglect in the year 2000. The majority of these children (63%) experienced neglect (alone or in combination with another form of maltreatment). Some children who experience maltreatment are removed from their homes with protective custody given to the state. On the last day of FY2001 an estimated 542,000 children were living in foster care (foster family, group, residential or other kind of home or placement setting).

During the first session of the 108<sup>th</sup> Congress legislation to reauthorize the Child Abuse Prevention and Treatment Act (CAPTA) and several related programs was introduced in both the House (H.R. 14) and Senate (S. 342) and has subsequently been cleared for floor action in both chambers. On February 13, the House passed H.R. 4, a comprehensive Temporary Assistance for Needy Families (TANF) reauthorization proposal, which includes provisions to extend and expand the authority of the Department of Health and Human Services (HHS) to grant child welfare waivers (through FY2008) and includes several other child-welfare related proposals. Additional bills related to child welfare that have been introduced in this Congress, include H.R. 336, which seeks to repeal the current “sunset” provision related to the adoption tax credit; H.R. 443 and S. 331, which would grant tribes new authority to operate foster care and adoption assistance programs under Title IV-E of the Social Security Act; and H.R. 584, which would allow penalty-free withdrawal of Individual Retirement Account (IRA) funds for some qualified adoption expenses.

The 108<sup>th</sup> Congress may also debate other child welfare issues, including the federal financing structure for child welfare services and reauthorization of Adoption Incentives. In his FY2004 budget, President Bush proposes to offer states an “alternative financing system for child welfare.” According to Administration budget documents, states choosing to participate would “face fewer administrative burdens and would receive funds in the form of flexible grants.” Congress may also consider reauthorization of Adoption Incentives; funding for incentive payments to states that increase the number of adoptions out of their child welfare systems was first authorized for FY1998 and expires with FY2003. The Administration proposes to reauthorize these incentive funds and to amend the program to especially reward adoptions of children age 9 or older.

This report describes legislative issues related to child welfare in the 108<sup>th</sup> Congress and will be updated as needed.

## Contents

Child Maltreatment and Children in Foster Care .....	1
Child Welfare Issues in the 108th Congress .....	3
Child Abuse Prevention and Treatment Act (CAPTA) .....	3
Waivers .....	4
Financing .....	5
Adoption Incentives .....	6
TANF Reauthorization .....	7
Adoption Tax Credit .....	8
Tribal Child Welfare Issues .....	9
Child Welfare Funding Levels .....	10
For More Information .....	12

## List of Figures

Figure 1. Estimates of U.S. Children in Substitute Care, 1985-2001, including Entries and Exits .....	2
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## List of Tables

Table 1. Proposed and Final Funding for Selected Child Welfare Programs, FY2002-FY2004 .....	11
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# Child Welfare Issues in the 108<sup>th</sup> Congress

Child welfare services are intended to protect children who have been abused or neglected or are at risk of maltreatment. These services take various forms, ranging from counseling and other supports for parents, which are intended to improve child well-being and prevent child abuse and neglect, to removal of the children from home. At the most extreme, these services include termination of parental rights and placement of the children for adoption.

States have primary responsibility for delivering child welfare services and deciding when to intervene in a family's life to protect the children. The federal government supports these state efforts with substantial funds. In FY2002, the federal government provided close to \$7 billion in funds dedicated to child welfare services, primarily for costs related to maintaining the out-of-home placements (i.e., foster care or adoption) of children who have been maltreated. In exchange for this funding (mostly offered under Title IV-B and Title IV-E of the Social Security Act), states must comply with federal rules intended to protect children who are served by the child welfare system. States also draw significant federal funds for support of child welfare services from the Social Services Block Grant (SSBG, Title XX of the Social Security Act), from the Temporary Assistance for Needy Families block grant (TANF, Title IV-A of the Social Security Act), and from other sources of federal funding, such as Medicaid.

Most child welfare and related child abuse programs are administered at the federal level by the Children's Bureau of the Department of Health and Human Services (HHS). The House Ways and Means and the Senate Finance committees have exercised jurisdiction over the majority of child welfare programs currently authorized. These include all of the programs provided for under Title IV-B and IV-E of the Social Security Act. (See **Table 1** at the back of this report for a list of these programs.) The House Education and Workforce, and Senate Health, Education, Labor, and Pensions Committees have exercised jurisdiction over the Child Abuse Prevention and Treatment Act. A handful of smaller programs, related primarily to the court handling of child abuse cases, are administered by the Department of Justice (DOJ), and some of these are under the jurisdiction of the House and Senate Judiciary Committees. Likewise, programs for missing and sexually exploited children are administered by the DOJ. (These Department of Justice programs are outside the scope of this report.)

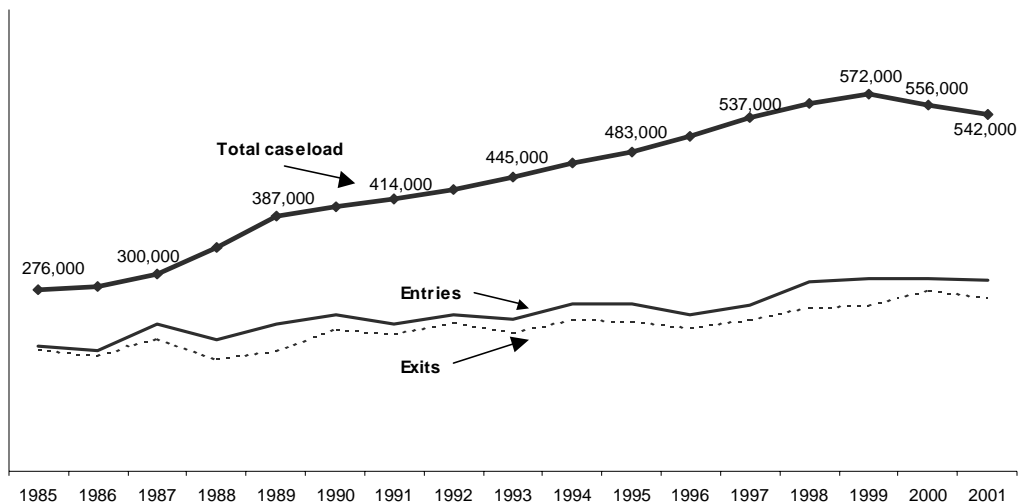
## Child Maltreatment and Children in Foster Care

In 2000, an estimated 879,000 U.S. children were found to be victims of abuse or neglect. This number is greater than the estimated 826,000 child maltreatment victims in 1999 but below the annual estimated highs of more than 1 million child maltreatment victims recorded through the mid-1990s. For the year 2000, states also

reported an increase in the percentage of child victims who experienced neglect, as compared to other kinds of maltreatment. The percentage of child victims experiencing neglect rose from 58% in 1999 to 63% in 2000, while the percentage of physical abuse and sexual abuse victims declined slightly.<sup>1</sup>

There were an estimated 542,000 children in foster care on the last day of FY2001 compared to an estimated 572,000 in FY1999 (when the foster care caseload reached the highest-ever recorded level) and an estimated 537,000 in FY1997. The size of the foster care caseload rises or falls depending upon both the number of entries to foster care – children who are removed from their homes in a given year – and the number of exits in that same year – children reunited with their families, adopted, emancipated, or placed in another permanent setting. The number of entries to foster care has outpaced the number of exits for two decades; however, in recent years the number of entries has remained fairly stable at around 290,000 while the number of exits increased from 249,000 in FY1998 to 275,000 in FY2000.

**Figure 1. Estimates of U.S. Children in Substitute Care, 1985-2001, including Entries and Exits**



**Source:** Data from 1985 to 1996 are from the American Public Human Services Association. Data from 1997 forward are estimates by the U.S. Department of Health and Human Services based on the Adoption and Foster Care Analysis Reporting System (AFCARS). The 2000 data are interim; the 2001 data are preliminary. Both numbers may be revised.

**Note:** The number of children in care is shown for the last day of the given fiscal year. The number of entries and exits are cumulative totals for the given fiscal year.

<sup>1</sup> U.S. Department of Health and Human Services, Administration on Children Youth and Families, *Child Maltreatment 2000, 2002*, 23-41.

## Child Welfare Issues in the 108th Congress

**Child Abuse Prevention and Treatment Act (CAPTA).** On January 7, Representative Hoekstra introduced H.R. 14; and on February 11, Senator Gregg introduced S.342. Both bills have bipartisan co-sponsors and are entitled the Keeping Children and Families Safe Act of 2003, and both seek to reauthorize CAPTA through FY2008. On February 12, the Senate Health, Education, Labor and Pensions Committee ordered S. 342 to be reported to the Senate (without amendment) and on February 13, the House Education and Workforce Committee ordered H.R. 14 to be reported to the House (as amended).

As currently written, CAPTA authorizes grants and research funds designed to improve state and local child protective services, offer services aimed at preventing child abuse and neglect, and increase knowledge about ways to prevent child maltreatment or better respond to its occurrence. Although the Act expired with FY2001, Congress appropriated \$81.6 million to continue CAPTA programs in FY2002 (P.L. 107-116) and, the FY2003 omnibus spending measure (P.L. 108-7) provides \$89.5 (subject to a .65% rescission) for CAPTA. Nearly all of the increased FY2003 funding is provided for earmarks included under the discretionary grants portion of the CAPTA appropriation. The President's FY2004 budget requests \$81.7 million for CAPTA.

With certain exceptions, both H.R. 14 and S. 342 follow CAPTA reauthorization legislation that passed in the House late during the 107<sup>th</sup> Congress (H.R. 5601) and was a partial compromise between earlier House-passed legislation (H.R. 3839) and a bill that had been approved by the Senate Health, Education, Labor, and Pensions Committee (S. 2998). Both bills would increase the funding authorization for CAPTA's grant programs to \$200 million and would extend its program authority through FY2008. Both are also designed to strengthen efforts to prevent child abuse and neglect, to promote increased sharing of information and expertise between child protective service agencies and education, health, and juvenile justice systems, to encourage a variety of new training programs designed to improve child protection, and to improve communication and collaboration between child protective services workers and families who are part of a child abuse and neglect investigation. The proposals would also include for-profits (generally) among the groups that may seek demonstration grant funds and receive technical assistance for child maltreatment related programs.

Both proposals would also require states that seek Basic State Grant Funds under CAPTA to meet several new "assurances," but they do not include identical provisions for all of these requirements. Among the requirements that are included in both bills a state must 1) disclose confidential information to federal, state, and local government entities (or their agents), if the information is needed to carry out their lawful duties to protect children; and 2) have provisions to ensure that alleged child maltreatment perpetrators are promptly informed of the allegations made against them. Both bills also include a new requirement regarding appropriate response to children born with, and showing evidence of, prenatal drug exposure. H.R. 14 would require health care providers involved in delivery of a drug-exposed newborn to report this to child protective services and also require that a safe plan of care for the child be developed. By contrast, S. 342 would require a state to have

provisions in place to respond to the birth of an infant who was prenatally exposed to an *illegal* drug; this response must include development of a safe plan of care for the child and *may* include appropriate referrals to child protective services. H.R. 14 would further require states to have procedures for referral of child maltreatment victims under 3 years of age to the statewide early intervention program (for developmental assessment) operated under Part C of the Individuals with Disabilities Education Act (IDEA). S. 342 does not include this requirement.

In addition, H.R. 14 and S. 342 include language that would reauthorize (through FY2008) and increase the funding authority for two related and also expired programs, Adoption Opportunities and Abandoned Infants Assistance. A number of the proposed changes in the Adoption Opportunities program are intended to eliminate barriers to the adoption of children across state and other jurisdictional boundaries. Finally, both bills also propose to amend and extend (through FY2008) the authority of certain programs under the Family Violence and Prevention Services Act. S. 342 also would require the HHS Secretary to reserve 50% of any funds appropriated above \$150 million for state family violence prevention grants to fund entities providing services to children who witness domestic violence. (For more background information and discussion of issues, see CRS Report RL30923, *Child Abuse Prevention and Treatment Act: Reauthorization Proposals in the 107<sup>th</sup> Congress*).

**Waivers.** As passed by the House on February 13, H.R. 4, which primarily reauthorizes TANF, would permit HHS to approve an unlimited number of child welfare demonstration projects (often called waivers) through FY2008. It would also prohibit HHS from limiting the number of demonstrations (or waivers) approved for a single state or from denying a demonstration project simply because the policy alternative is already being tested (or may be tested) in another state. H.R. 4 also would require HHS to streamline its child welfare waiver approval process and make evaluation reports available to states or other interested parties. The full Senate has not yet taken up TANF reauthorization legislation. (However, S. 5, introduced by Senator Talent on February 14, contains these same child welfare waiver provisions.) During the 107<sup>th</sup> Congress the Senate Finance Committee had approved a bill (H.R. 4737 as reported to the Senate) that sought to extend HHS authority to approve 10 demonstration projects each year (through FY2007) and to prohibit HHS from limiting the number of demonstration projects (or waivers) approved for a single state.

Child welfare waivers allow states to use federal funds to test new services without meeting all of the federal child welfare requirements specified in Title IV-B and IV-E of the Social Security Act. The proposed demonstration program or service must be designed to accomplish the same goals as those federal child welfare programs, must be cost-neutral to the federal government, and must be formally evaluated. (Further, certain specified federal protections offered to all children in the public child welfare system may not be waived in any case.) Under current law, HHS could approve up to 10 demonstration projects (including one or more waivers of federal rules) in each of FY1998 through FY2002. In the past, HHS has expressed its preference for approving projects in states not previously granted authority to operate a demonstration project and for projects that test unique policy alternatives.

**Financing.** The President's FY2004 budget proposes to offer all states an alternative method to finance their child welfare system. According to Administration budget documents, this option is intended to "serve as an incentive [for states] to create innovative child welfare plans with a strong emphasis on prevention and family support." No specific legislative language has yet been proposed, but the Administration indicates that under this "flexible funding" plan, states could opt to receive their foster care funding (currently an open-ended entitlement for costs incurred on behalf of eligible children) as an annual pre-established grant amount, would be able to use these funds for the full range of child welfare services – from prevention of the need for removal through foster care placement and adoption – and would no longer need to determine a child's federal foster care eligibility status in order to use federal funds on his or her behalf. At the same time states would be required to uphold existing child safety protections, agree to maintain existing levels of state investment in child welfare programs, and continue to participate in the HHS-administered Child and Family Services Reviews (to ensure compliance with federal child welfare policy). States experiencing a "severe foster care crisis" would, under certain circumstances, be able to tap TANF contingency funds to meet this unanticipated need. In addition, the President's proposal includes a \$30 million set-aside to be available for Indian tribes (tribes are currently not eligible to directly receive federal foster care funds under Title IV-E of the Social Security Act) and a one-third of 1% set-aside for monitoring and technical assistance of state foster care programs.

Currently federal funds dedicated to child welfare (primarily under Titles IV-B and IV-E of the Social Security Act) go to states through a complex package of grants, with different allocation formulas, matching requirements, and numerous rules. States also rely on other more flexible federal funds to support their child welfare programs. The 1996 welfare reform law that created TANF (P.L. 104-193) eliminated Emergency Assistance (which had been primarily used by states to support family preservation), and reduced the SSBG, also a major source of child welfare funds). However, TANF's flexible funds, combined with declining caseloads, allowed states to use TANF dollars for certain child welfare services and at least through FY2000, this provided a boost to child welfare spending. According to an Urban Institute survey, in FY2000 states expended some \$2.3 billion in TANF funds (some of which were funneled through SSBG) for child welfare purposes. But the continued availability of some or all of these TANF funds for child welfare purposes appears to be jeopardized by changing TANF and state budget priorities linked to economic recession.<sup>2</sup>

The 1996 TANF law also maintained a historic connection between federal child welfare funding and TANF's predecessor program, Aid to Families with Dependent Children (AFDC); the law continued to link a state's entitlement to federal reimbursement for foster care and adoption assistance costs to whether those costs can be tied to a child who was removed from a family that was receiving (or would have been eligible to receive) AFDC – as that program existed in a given state on July 16, 1996. The 1996 law did not provide a mechanism for adjustment of the

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<sup>2</sup> Roseanna Bess, Cynthia Andrews, Amy Jantz, Victoria Russell, Rob Geen, *The Cost of Protecting Vulnerable Children III*, Urban Institute: Washington, D.C., Dec. 2002, 18.



1996 AFDC income-eligibility rules. This concerns states who predict declining levels of federal foster care and adoption assistance funding due to inflation and the administrative complexity inherent in using eligibility rules for a program that no longer exists. Some observers also question the rationale of an income eligibility test for federal foster care and adoption assistance reimbursements and argue that a child's need for protection and care is not limited by family income.

**Financing proposals in the recent past.** While many observers believe the current child welfare financing system is counterproductive to the interests of children and families, no consensus exists on a method of reform. Late in the 106th Congress, Representative Nancy Johnson introduced H.R. 5292, which would have authorized "flexible funding" demonstrations, including a block grant approach, in a limited number of states. Also in 2000, Senator Grassley (with Senators DeWine and Landrieu) announced a proposal (never formally introduced) that would have increased federal matching payments for foster care during the first 18 months of a child's stay in care, then reduced and eventually eliminated federal matching the longer the child remained.

In the 107<sup>th</sup> Congress, H.R. 1990 and S. 940 sought to "de-link" federal foster care and adoption assistance eligibility from income measures, and S. 2052 would have given states the option of linking this eligibility to TANF income and resource standards. H.R. 1990 and S. 940 also sought to allow open-ended federal matching, under Title IV-E, for a variety of new services, including preventive, protective and crisis services; permanency services; ongoing payments to relative guardians of former foster children; independent living services; and living expenses of former foster youths under the age of 22, (if they are in school or working and participating in an independent living program). The federal matching rate for all services (including training, administration, and data collection) would be the Medicaid matching rate, which varies by state. (For more information, see CRS Report RL31082, *Child Welfare Financing: Issues and Options*.)

**Adoption Incentives.** The 1997 Adoption and Safe Families Act (P.L. 105-89) created the Adoption Incentives program (Section 473A of the Social Security Act). Funding authorization for these incentive payments expires with FY2003 and Congress may consider reauthorization legislation in this session. As part of its FY2004 budget justification, HHS proposes to reauthorize funding for the program (through FY2008) and to amend the program to reward adoptions of foster care children age 9 or older while continuing to offer incentives to states who increase their total adoptions out of foster care.

Currently the Adoption Incentives program authorizes funds for incentive payments to states that increased the number of adoptions out of the public foster care program in each of FY1998-FY2002. Eligible states receive \$4,000 for each foster child whose adoption is finalized above a state's specified foster child adoption baseline. States also receive an additional \$2,000 for each of those adoptions, which involved a special needs child who receives federal adoption assistance, and that are above the state-specified special needs adoption baseline. For adoptions finalized in 1998, the baselines drew on the state's average number of foster child adoptions (or special needs adoptions) in FY1995-FY1997. For adoptions finalized in FY1999-FY2002, the baselines are drawn from the year (beginning with FY1997) in which

the state achieved its *highest* number of foster child adoptions (or special needs adoptions). States are permitted to use these incentive funds for any purpose authorized under Title IV-B or Title IV-E of the Social Security Act.

The Administration proposal would maintain two independent adoption baselines but would replace the current “special needs” baseline with one for children age 9 or older. For each child adopted out of the foster care system (above the state’s baseline), the state would receive an incentive payment of \$4,000; for each child age 9 or older who is adopted out of the foster care system (above the state baseline for older children) the state would receive an incentive of \$6,000. According to the HHS Budget justifications, analysis of adoptions from public foster care indicate that older children remain less likely to be adopted and specifically that once a child waiting for adoption reaches 8 or 9 years of age, “the probability that the child will continue to wait in foster care exceeds the probability that the child will be adopted.” In addition, HHS notes that “older children constitute an increasing proportion of the pool of children waiting for adoptive families.”

As originally enacted, the law authorized \$20 million annually. However, states have increased adoptions at a rate far greater than this funding level. (There were some 26,000 adoptions out of the public child welfare system in FY1995 compared to an estimated 51,000 in FY2000 and an estimated 50,000 in FY2001.) HHS estimates a total of 238,000 adoptions from the public child welfare system were completed in the 5 years (FY1998-FY2002) in which the Adoption Incentives program has authorized rewards for increased adoptions. Along with its reauthorization request the Department proposes to set a new goal of 300,000 adoptions over 5 years (FY2004-FY2008).

Through FY2002, Congress appropriated a total of \$147.7 million for Adoption Incentive payments of which states have (for adoptions through FY2001) earned \$144.7 million. All states, the District of Columbia, and Puerto Rico have earned an adoption incentive award in at least 1 year. For adoptions finalized in FY1998, states earned \$42.5 million; for FY1999 adoptions, \$51.5 million; for FY2000 adoptions, \$33.2 million and for FY2001 adoptions, \$17.5 million. President Bush requested \$43 million in FY2003 funding for this program, this is equal to the program’s FY2002 funding level and to the amount of Adoption Incentives funding (subject to the .65% funding rescission) included in FY2003 omnibus spending measure (P.L. 107-8). The President’s FY2004 budget request again includes \$43 million for Adoption Incentives.

**TANF Reauthorization.** When the 1996 law creating the TANF block grant was enacted, some child welfare advocates were concerned that work requirements, time limits, and other changes in the cash welfare system might harm children. Research on this issue has not been conclusive; however, concerns remain. (See CRS Report RL31508, *Child Welfare and TANF Implementation: Recent Findings.*) The TANF reauthorization debate, which began in the 107<sup>th</sup> Congress, touches on certain child welfare-related issues and some child welfare-related measures are included in the comprehensive TANF reauthorization legislation passed by the House on February 13 (H.R.4). In addition, several child welfare-related measures were included in the TANF reauthorization legislation approved in the 107<sup>th</sup> Congress by

the Senate Finance Committee (H.R. 4737, as reported to the Senate). These are discussed below.

***Improve Child Well-Being and Reduce Child Poverty.*** The 107<sup>th</sup> Congress considered several proposals to amend the purposes and/or practice of TANF to explicitly address the issues of child well-being and child poverty. Because a majority of children who enter the public child welfare system come from poor families and a major goal of the system is to ensure and improve their well-being, these issues are important to child welfare. As passed by the House, H.R. 4 would make improving child well-being the overarching goal of each of TANF's four stated purposes and would amend one of the current law goals to include reducing family poverty. The TANF reauthorization legislation approved by the Senate Finance Committee in the 107<sup>th</sup> Congress would have required states to assess and discuss child well-being as part of developing individual responsibility plans.

H.R. 4 would also mandate new child well-being-related research and performance measures. As passed by the House, the legislation would require HHS to develop "uniform performance measures" to gauge how well states are meeting TANF goals, and would require the Census Bureau to implement a new survey of program participation to assess outcomes of continued welfare reform on the economic and child well-being of low-income families. Further, evaluation of "fatherhood programs" authorized under H.R. 4 would need to assess program affects on a range of issues, including child well-being and child abuse and neglect. The TANF reauthorization legislation approved by the Senate Finance Committee in the 107<sup>th</sup> Congress would have required HHS to establish child well-being indicators (including measures related to education, social and emotional development, health and safety, and family well-being), to establish an Advisory Panel to make recommendations regarding how the indicators would be assessed, and to assess state performance using these indicators.

***Sanctions.*** Current TANF law requires states to impose a penalty on individuals who fail to meet work participation rules, and it allows states to choose between cutting a family's entire benefit or reducing some part of the benefit as a sanction for noncompliance. This means a portion of some states' caseload consists of "child-only" cases where, because of failure to meet work or other rules, a parent (or other adult) is no longer receiving benefits on their own behalf, but the child(ren) in the family continue to receive aid. As passed by the House, H.R. 4 would limit this kind of "child-only" case by requiring that after 2 months of an adult failing to meet established work requirements (without good cause), a state must end the entire benefit for the family of which the noncomplying adult is a part. Continuing benefits to the child(ren) in the family, using federal TANF or state Maintenance of Effort funds, would not be allowed. (H.R. 4 provides an exemption for states whose constitution or statute would prohibit a full family sanction, but this exemption would expire within 1 year of enactment of this provision.)

***Adoption Tax Credit.*** On January 27, Representative Camp introduced legislation (H.R. 336) that would make the current adoption tax credit fully permanent. As a part of the Economic Growth and Tax Reconciliation Act of 2001 (P.L. 107-16), Congress expanded the adoption tax credit and made it a "permanent" part of the tax code. However, P.L. 107-16 provides that the tax changes it contains

must expire (or “sunset”) in 2010. H.R. 336 would exempt the adoption tax credit from this sunset provision. The 107<sup>th</sup> Congress considered identical legislation (H.R. 4800, S. 2643). Although the House passed H.R. 4800, the full Senate did not act on this matter, and the proposals died with the 107<sup>th</sup> Congress.

In 2001 Congress doubled the existing credit (from \$5,000 to \$10,000), made the full credit available to families with incomes up to \$150,000 (previously the phase-out began at \$75,000), and provided for a cost-of-living inflation adjustment of this credit. As of the 2002 tax year, adoptive parents may claim the \$10,000 credit up to the full amount of their qualified adoption expenses; beginning with tax year 2003, parents who finalize the adoption of children with special needs will be able to claim this entire credit amount regardless of their actual adoption expenses.

As introduced by Representative Peter King, on February 5, H.R. 584 would further amend the Internal Revenue Code to ensure that adoptive parents who withdrew funds from an Individual Retirement Account (IRA) in order to finance an adoption could do so without penalty. In general individuals would be allowed to withdraw up to \$10,000 for certain adoption expenses (generally those “qualified adoption expenses” not already covered by the adoption tax credit). Parents who adopt a “special needs” child could make penalty-free withdrawals on a somewhat broader basis.

**Tribal Child Welfare Issues.** As noted above, tribes are currently not eligible to directly receive federal foster care and adoption assistance funds under Title IV-E of the Social Security Act, and the President’s FY2004 budget request proposes to set-aside \$30 million for tribes out of an optional child welfare financing system. On January 29, Representative Camp introduced H.R. 443; and on February 6, Senator Daschle (with eight bipartisan cosponsors) introduced S. 331; the bills are identical and would grant new authority to tribes to operate foster care and adoption assistance programs on the same general financing basis currently available to states. The bill provides that tribal programs would define the service area where their plan is in effect and would be able to grant approval of foster care homes based on tribal standards that ensure the safety of children, but would otherwise need to comply with all federal program provisions that apply to states. (However, the HHS Secretary could waive any requirement if he found doing so would “advance the best interests and safety of the children” served by the tribal plan.) Tribes that currently have agreements with a state to receive some Title IV-E reimbursement could continue those agreements.

The provisions of H.R. 443 and S. 331 are similar to those reported in the 107<sup>th</sup> Congress (H.R. 4737) by the Senate Finance Committee, except that H.R. 4737 included a separate definition of “tribe” for native groups in Alaska and would have required those Alaska groups to meet the same federal foster care home requirements that states must meet. The Congressional Budget Office estimated the cost of the Senate Finance Committee provisions at \$12 million for FY2004 and \$398 million over the FY2004-FY2012 period.

As passed by the House on February 13, H.R. 4 set-asides \$2 million for demonstrations projects designed to test the effectiveness of tribes in coordinating child welfare and TANF services to tribal families at risk of child abuse or neglect.

## **Child Welfare Funding Levels**

**Table 1** (below) lists proposed and final funding levels for selected child welfare programs and indicates whether the program receives mandatory or discretionary funding. On February 13, the House and Senate passed FY03 appropriations legislation (H.J. Res. 2) and on February 20 the President signed the measure into law (P.L. 108-7).



**Source:** Table prepared by Congressional Research Service (CRS) based on Administration budget documents and House and Senate documents related to H.J. Res. 2 and H.R. 246.

NA = not applicable

- <sup>a</sup> The numbers in this table do not include funding rescissions that were included in the Senate-approved FY2003 omnibus spending measure (H.J.Res. 2). As passed by the Senate the funding cut totaled approximately 3% on most discretionary, domestic, nonmilitary programs.
- <sup>b</sup> H.R. 246 was introduced in the House on January 8, 2003 by Rep. Regula who chairs the House Appropriations Subcommittee on Labor, Health and Human Services, and Education. There was no similar bill approved by the House Appropriations Committee for FY2003.
- <sup>c</sup> The numbers in this table do not include funding rescission that were approved as a part of the final funding legislation (P.L. 108-7). As enacted the funding cut equals .65% on most discretionary, nonmilitary programs, including all of the discretionary funds shown in this table.
- <sup>d</sup> Before FY2002, all funding for this program was mandatory. P.L. 107-133, which reauthorized the program through FY2006, set an annual mandatory funding level of \$305 million for it and authorized additional discretionary funding up to \$200 million in each fiscal year. Out of the total final FY2003 funding shown for this program, \$100 million is discretionary and therefore subject to the legislation's funding rescission. See table note c above for more information on the funding rescission.
- <sup>e</sup> P.L. 107-133, which was signed into law in January 2002, first authorized this funding.
- <sup>f</sup> The Federal Foster Care and Adoption Assistance Programs are the only two child welfare programs funded with mandatory (or entitlement) dollars that are also on an "open-ended" basis. This means there is no annual cap on the amount of federal money that may be spent on these programs; states may claim reimbursement for a part of all eligible foster care and adoption assistance related costs. The final funding levels shown in this row are estimated federal expenditures; the proposed funding levels reflect estimates of what states are expected to claim for these programs in FY2003.
- <sup>g</sup> These grants are not funded out of the general treasury. Instead, P.L. 98-473 (Victims of Crime Act of 1984), as amended, provides that up to \$20 million annually is to be set-aside for these grants out of the Crime Victims Fund. That fund is composed of various criminal fines, penalties, assessments and forfeitures and is administered by the Department of Justice.
- <sup>h</sup> Appropriations shown in this row are for programs authorized under the Children's Health Act of 2000 (Sections 330F and 330G of Title III of the Public Health Service Act). Section 330F authorizes Adoption Awareness, which received \$9.9 million in both FY2001 and FY 2002. Section 330G authorizes a Special Needs Adoption Program aimed at improving awareness of adoption of special needs children. This program did not receiving funding in FY2001 but received \$3 million in FY2002.

## For More Information

CRS Report RL30894, *Child Welfare: Reauthorization of the Promoting Safe and Stable Families Program in the 107<sup>th</sup> Congress*, by Emilie Stoltzfus and Karen Spar.

CRS Report RL31242, *Child Welfare: Federal Program Requirements for States*, by Emilie Stoltzfus

CRS Report RS20230, *Child Welfare: The Chafee Foster Care Independence Program*.

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