

# Social Security

Official Social Security Website

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# Compilation of the Social Security Laws



## ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION

SEC. 438. [42 U.S.C. 629h] (a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E of title IV of the Social Security Act, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) that implement parts B and E ;

(B) that determine the advisability or appropriateness of foster care placement;

(C) that determine whether to terminate parental rights;

(D) that determine whether to approve the adoption or other permanent placement of a child;

(E) that determine the best strategy to use to expedite the interstate placement of children, including—

(i) requiring courts in different States to cooperate in the sharing of information;

(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and

(2) to implement improvements the highest state courts deem necessary as a result of the assessments, including—

(A) to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105-89), including the requirements in the Act related to concurrent planning;<sup>[147]</sup>

(B) to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act; and<sup>[148]</sup>

(C)<sup>[149]</sup> to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption;

(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

(4)(A)<sup>[150]</sup> to provide for the training of judges, attorneys and other legal personnel in child welfare cases; and<sup>[151]</sup>

(B)<sup>[152]</sup> to increase and improve engagement of the entire family in court processes relating to child welfare, family preservation, family reunification, and adoption.

(b) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

(2)<sup>[153]</sup> SINGLE GRANT APPLICATION.—Pursuant to the requirements under paragraph (1) of this subsection, a highest State court desiring a grant under this section shall submit a single application to the Secretary that specifies whether the application is for a grant for—

- (A) the purposes described in paragraphs (1) and (2) of subsection (a);
- (B) the purpose described in subsection (a)(3);
- (C) the purpose described in subsection (a)(4); or
- (D) the purposes referred to in 2 or more (specifically identified) of subparagraphs (A), (B), and (C) of this paragraph.

(c)<sup>[154]</sup> AMOUNT OF GRANT.—

(1) IN GENERAL.—With respect to each of subparagraphs (A), (B), and (C) of subsection (b) (2) that refers to 1 or more grant purposes for which an application of a highest State court is approved under this section, the court shall be entitled to payment, for each of fiscal years 2012 through 2016, from the amount allocated under paragraph (3) of this subsection for grants for the purpose or purposes, of an amount equal to \$85,000 plus the amount described in paragraph (2) of this subsection with respect to the purpose or purposes.

(2) AMOUNT DESCRIBED.—The amount described in this paragraph for any fiscal year with respect to the purpose or purposes referred to in a subparagraph of subsection (b)(2) is the amount that bears the same ratio to the total of the amounts allocated under paragraph (3) of this subsection for grants for the purpose or purposes as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under this section for grants for the purpose or purposes.

(3) ALLOCATION OF FUNDS.—

(A) MANDATORY FUNDS.—Of the amounts reserved under section 436(b)(2) for any fiscal year, the Secretary shall allocate—

- (i) \$9,000,000 for grants for the purposes described in paragraphs (1) and (2) of subsection (a);
- (ii) \$10,000,000 for grants for the purpose described in subsection (a)(3);
- (iii) \$10,000,000 for grants for the purpose described in subsection (a)(4); and

(iv) \$1,000,000 for grants to be awarded on a competitive basis among the highest courts of Indian tribes or tribal consortia that—

(I) are operating a program under part E, in accordance with section 479B;

(II) are seeking to operate a program under part E and have received an implementation grant under section 476; or

(III) has a court responsible for proceedings related to foster care or adoption.

(B) DISCRETIONARY FUNDS.—The Secretary shall allocate all of the amounts reserved under section 437(b)(2) for grants for the purposes described in paragraphs (1) and (2) of subsection (a).

(d) FEDERAL SHARE.—Each highest State court which receives funds paid under this section may use such funds to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2012 through 2016<sup>[155]</sup>.

(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

(1) \$10,000,000 for grants referred to in subsection (b)(2)(B); and

(2) \$10,000,000 for grants referred to in subsection (b)(2)(C).

For fiscal year 2011, out of the amount reserved pursuant to section 436(b)(2) for such fiscal year, there are available \$10,000,000 for grants referred to in subsection (b)(2)(B), and \$10,000,000 for grants referred to in subsection (b)(2)(C).

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<sup>[147]</sup> P.L. 112-34, §104(a)(1)(A), struck out “; and” and inserted “, including the requirements in the Act related to concurrent planning;”, effective October 1, 2011.

<sup>[148]</sup> P.L. 112-34, §104(a)(1)(B), added “and”.

<sup>[149]</sup> P.L. 112-34, §104(a)(1)(C), added subparagraph (C), effective October 1, 2011.

<sup>[150]</sup> P.L. 112-34, §104(a)(2)(A), inserted “(A)”.

<sup>[151]</sup> P.L. 112-34, §104(a)(2)(B), struck out the period and inserted “; and”.

<sup>[152]</sup> P.L. 112-34, §104(a)(2)(C), added subparagraph (B), effective October 1, 2011.



<sup>[153]</sup> P.L. 112-34, §104(b), amended paragraph (2) in its entirety, effective October 1, 2011. For paragraph (2) as it formerly read, see Vol. II, Appendix J, Superseded Provisions, P.L. 112-34.

<sup>[154]</sup> P.L. 112-34, §104(c), amended subsection (c) in its entirety, effective October 1, 2011. For subsection (c) as it formerly read, see Vol. II, Appendix J, Superseded Provisions, P.L. 112-34.

<sup>[155]</sup> P.L. 112-34, §104(d), struck out “2002 through 2011” and inserted “2012 through 2016”, effective October 1, 2011.

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