To provide additional temporary supports and flexibilities for older foster youth, grandparents, and other kinship families, home visiting for pregnant and parenting families, and other child welfare services, during the COVID-19 pandemic.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 7, 2020

Mr. DANNY K. DAVIS of Illinois (for himself and Mrs. WALORSKI) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To provide additional temporary supports and flexibilities for older foster youth, grandparents, and other kinship families, home visiting for pregnant and parenting families, and other child welfare services, during the COVID-19 pandemic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

1

2

3

4

5
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”.

(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 2020, 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.

(3) 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.

(4) MAXIMUM AWARD AMOUNT.—The dollar amount specified in section 477(i)(4)(B) of the Social Security Act through the end of fiscal year 2021 is deemed to be $12,000.

(5) 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 the COVID–19 public health emergency period, 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 allot-
ment to a State under section 477(e) 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 adminis-
tratively 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 to-
ward completion of that program if a youth is un-
able to do so due to the COVID–19 public health
emergency.

(2) Authority to use vouchers to main-
tain 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 de-
scribed in paragraph (1) of this subsection.

(3) Authority to waive limitations on
percentage of funds used for housing assist-
ance 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 sec-
tion 477(c)(1) of such Act for a fiscal year, for
room or board payments; and

(B) any of such amounts for youth other-
wise 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.

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 respon-
sibility 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 emer-
gency to voluntarily re-enter foster care;

(2) provide to each such youth who was for-
maally discharged from foster care during the
COVID–19 public health emergency, a notice de-
signed to make the youth aware of the option to re-
turn 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 ap-
proved under part E of title IV of the Social Security Act
shall—

(1) continue to ensure that the safety, perma-
nence, and well-being needs of older foster youth, in-
cluding 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, 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.

SEC. 5. FAMILY FIRST PREVENTION SERVICES PROGRAM

PANDEMIC FLEXIBILITY.

During the COVID–19 public health emergency period, each percentage specified in subparagraphs (A)(i) and (B) of section 474(a)(6) of the Social Security Act is deemed to be 100 percent.

SEC. 6. EMERGENCY FUNDING FOR THE MARYLEE ALLEN PROMOTING SAFE AND STABLE FAMILIES PROGRAM.

(a) In General.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $85,000,000 to carry out section 436(a) of the Social Security Act for fiscal year 2020, in addition to any amounts otherwise made available for such purpose. For purposes of section 436(b) of such Act, the amount made available by the preceding sentence shall be considered part of the amount specified in such section 436(a).

(b) Inapplicability of State Matching Requirement to Additional Funds.—In making payments under section 434(a) of the Social Security Act from the additional funds made available as a result of
subsection (a) of this section, the percentage specified in
section 434(a)(1) of such Act is deemed to be 100 percent.

SEC. 7. COURT IMPROVEMENT PROGRAM.

(a) Reservation of Funds.—Of the additional
amounts made available by reason of section 6 of this Act,
the Secretary shall reserve $10,000,000 for grants under
subsection (b) of this section, which shall be considered
to be made under section 438 of the Social Security Act.

(b) Distribution of Funds.—

(1) In general.—From the amounts reserved
under subsection (a) of this section, the Secretary
shall—

(A) reserve not more than $500,000 for
Tribal court improvement activities; and

(B) from the amount remaining after the
application of subparagraph (A), make a grant
to each highest State court that is approved to
receive a grant under section 438 of the Social
Security Act for the purpose described in sec-
tion 438(a)(3) of such Act, for fiscal year 2020.

(2) Amount.—The amount of the grant award-
ed to a highest State court under this subsection
shall be the sum of—

(A) $85,000; and
(B) the amount that bears the same ratio to the amount reserved under subsection (a) that remains after the application of paragraph (1)(A) and subparagraph (A) of this paragraph, as the number of individuals in the State in which the court is located who have not attained 21 years of age bears to the total number of such individuals in all States the highest courts of which were awarded a grant under this subsection (based on the most recent year for which data are available from the Bureau of the Census).

(3) Other rules.—

(A) In general.—The grants awarded to the highest State courts under this subsection shall be in addition to any grants made to the courts under section 438 of the Social Security Act for any fiscal year.

(B) No additional application.—The Secretary shall award grants to the highest State courts under this subsection without requiring the courts to submit an additional application.
(C) REPORTS.—The Secretary may establish reporting criteria specific to the grants awarded under this subsection.

(D) REDISTRIBUTION OF FUNDS.—If a highest State court does not accept a grant awarded under this subsection, or does not agree to comply with any reporting requirements imposed under subparagraph (C) or the use of funds requirements specified in subsection (c), the Secretary shall redistribute the grant funds that would have been awarded to that court under this subsection among the other highest State courts that are awarded grants under this subsection and agree to comply with the reporting and use of funds requirements.

(c) USE OF FUNDS.—A highest State court awarded a grant under subsection (b) shall use the grant funds to address needs stemming from the COVID–19 public health emergency, which may include any of the following:

(1) Technology investments to facilitate the transition to remote hearings for dependency courts when necessary as a direct result of the COVID–19 public health emergency.
(2) Training for judges, attorneys, and case-workers on facilitating and participating in remote hearings that comply with due process and all applicable law, ensure child safety and well-being, and help inform judicial decision making.

(3) Programs to help families address aspects of the case plan to avoid delays in legal proceedings that would occur as a direct result of the COVID–19 public health emergency.

(4) Other purposes to assist courts, court personnel, or related staff related to the COVID–19 public health emergency.

SEC. 8. ALLOWING HOME VISITING PROGRAMS TO CONTINUE SERVING FAMILIES SAFELY.

(a) IN GENERAL.—For purposes of section 511 of the Social Security Act, during the COVID–19 public health emergency period—

(1) a virtual home visit shall be considered a home visit;

(2) funding for, and staffing levels of, a program conducted pursuant to such section shall not be reduced on account of reduced enrollment in the program; and

(3) funds provided for such a program may be used—
(A) to train home visitors in conducting a virtual home visit and in emergency preparedness and response planning for families served, and may include training on how to safely conduct intimate partner violence screenings remotely, training on safety and planning for families served;

(B) for the acquisition by families enrolled in the program of such technological means as are needed to conduct and support a virtual home visit; and

(C) to provide emergency supplies to families served, regardless of whether the provision of such supplies is within the scope of the approved program, such as diapers, formula, non-perishable food, water, hand soap, and hand sanitizer.

(b) VIRTUAL HOME VISIT DEFINED.—In subsection (a), the term “virtual home visit” means a home visit, as described in an applicable service delivery model, that is conducted solely by the use of electronic information and telecommunications technologies.

(e) AUTHORITY TO DELAY DEADLINES.—

(1) IN GENERAL.—The Secretary may extend the deadline by which a requirement of section 511
of the Social Security Act must be met, by such pe-
period of time as the Secretary deems appropriate,
taking into consideration the impact of the COVID–
19 public health emergency on eligible entity home
visiting programs and the impact of families enrolled
in home visiting programs. The Secretary may delay
the deadline for submission, waive performance
measures, or allow for alternative data sources to be
used to show improvement in performance in the
manner provided in section 511(d)(1) of such Act.

(2) Delay of deadline for statewide
needs assessment.—The Secretary may delay the
October 1, 2020, deadline for reviewing and updat-
ing any needs assessment required by section
511(b)(1) or 511(h)(2)(A) of the Social Security
Act, but any such delay shall not affect the timing
for, or amount of, any payment to the State involved
from the fiscal year allotments available to the State
under section 502(c) of such Act.

(3) Guidance.—The Secretary shall provide to
eligible entities funded under section 511 of the So-
cial Security Act information on the parameters
used in extending a deadline under paragraph (1) or
(2) of this subsection.
(d) Extension of Grant Obligation Period.—Notwithstanding section 511(j)(3)(A) of the Social Security Act, funds made available to an eligible entity for fiscal year 2018 under section 511 of such Act shall remain available for expenditure by the eligible entity through September 30, 2021.

(e) Timely Release of Title V Funds.—The authorities provided in this section shall not be interpreted to authorize or require any delay in the timely release of funds under title V of the Social Security Act.

SEC. 9. KINSHIP NAVIGATOR PROGRAMS PANDEMIC FLEXIBILITY.

(a) Inapplicability of Matching Funds Requirements.—During the COVID–19 public health emergency period, the percentage specified in section 474(a)(7) of the Social Security Act is deemed to be 100 percent.

(b) Waiver of Evidence Standard.—During the COVID–19 public health emergency period, the requirement in section 474(a)(7) of the Social Security Act that the Secretary determine that a kinship navigator program be operated in accordance with promising, supported, or well-supported practices that meet the applicable criteria specified for the practices in section 471(e)(4)(C) of such Act shall have no force or effect.
(c) Other Allowable Uses of Funds.—A State may use funds provided to carry out a kinship navigator program—

(1) for evaluations, independent systematic review, and related activities;

(2) to provide short-term support to kinship families for direct services or assistance during the COVID–19 public health emergency period; and

(3) to ensure that kinship caregivers have the information and resources to allow kinship families to function at their full potential, including—

(A) ensuring that those who are at risk of contracting COVID–19 have access to information and resources for necessities, including food, safety supplies, and testing and treatment for COVID–19;

(B) access to technology and technological supports needed for remote learning or other activities that must be carried out virtually due to the COVID–19 public health emergency;

(C) health care and other assistance, including legal assistance and assistance with making alternative care plans for the children in their care if the caregivers were to become unable to continue caring for the children;
(D) services to kinship families, including kinship families raising children outside of the foster care system; and

(E) assistance to allow children to continue safely living with kin.

(d) Territory Cap Exemption.—Section 1108(a)(1) of the Social Security Act shall be applied without regard to any amount paid to a territory pursuant to this section that would not have been paid to the territory in the absence of this section.

SEC. 10. ADJUSTMENT OF FUNDING CERTAINTY BASELINES FOR FAMILY FIRST TRANSITION ACT FUNDING CERTAINTY GRANTS.

Section 602(c)(2) of division N of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) is amended—

(1) in subparagraph (C), in the matter preceding clause (i), by striking “The calculation” and inserting “Except as provided in subparagraph (G), the calculation”; and

(2) by adding at the end the following:

“(G) Adjustment of Funding Certainty Baselines.—

“(i) Hold Harmless for Temporary Increase in FMAP.—For each fis-
eral year specified in subparagraph (B), the Secretary shall increase the maximum capped allocation for fiscal year 2019 or the final cost neutrality limit for fiscal year 2018 for a State or sub-State jurisdiction referred to in subparagraph (A)(i), by the amount equal to the difference between—

“(I) the amount of the foster care maintenance payments portion of such maximum capped allocation or final cost neutrality limit; and

“(II) the amount that the foster care maintenance payments portion of such maximum capped allocation or final cost neutrality limit would be if the Federal medical assistance percentage applicable to the State under clause (ii) for the fiscal year so specified were used to determine the amount of such portion.

“(ii) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of clause (i)(II), the Federal medical assistance percentage applicable to a State for a fiscal year specified in subparagraph
(B) is the average of the values of the Federal medical assistance percentage applicable to the State in each quarter of such fiscal year under section 474(a)(1) of the Social Security Act (42 U.S.C. 674(a)(1)) after application of any temporary increase in the Federal medical assistance percentage for the State and quarter under section 6008 of the Families First Coronavirus Response Act (42 U.S.C. 1396d note) and any other Federal legislation enacted during the period that begins on July 1, 2020, and ends on September 30, 2021.”.

SEC. 11. TECHNICAL CORRECTION TO TEMPORARY INCREASE OF MEDICAID FMAP.

Section 6008 of the Families First Coronavirus Response Act (Public Law 116–127) is amended by adding at the end the following:

“(d) Application to Title IV-E Payments.—If the District of Columbia receives the increase described in subsection (a) in the Federal medical assistance percentage for the District of Columbia with respect to a quarter, the Federal medical assistance percentage for the District of Columbia, as so increased, shall apply to pay-
ments made to the District of Columbia under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) for that quarter, and the payments under such part shall be deemed to be made on the basis of the Federal medical assistance percentage applied with respect to such District for purposes of title XIX of such Act (42 U.S.C. 1396 et seq.) and as increased under subsection (a).”.