

Public Law 108–145  
108th Congress

An Act

To reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

Dec. 2, 2003  
[H.R. 3182]

*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 “Adoption Promotion Act of 2003”.

Adoption  
Promotion Act of  
2003.  
42 USC 1305  
note.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) In 1997, the Congress passed the Adoption and Safe Families Act of 1997 to promote comprehensive child welfare reform to ensure that consideration of children’s safety is paramount in child welfare decisions, and to provide a greater sense of urgency to find every child a safe, permanent home.

(2) The Adoption and Safe Families Act of 1997 also created the Adoption Incentives program, which authorizes incentive payments to States to promote adoptions, with additional incentives provided for the adoption of foster children with special needs.

(3) Since 1997, all States, the District of Columbia, and Puerto Rico have qualified for incentive payments for their work in promoting adoption of foster children.

(4) Between 1997 and 2002, adoptions increased by 64 percent, and adoptions of children with special needs increased by 63 percent; however, 542,000 children remain in foster care, and 126,000 are eligible for adoption.

(5) Although substantial progress has been made to promote adoptions, attention should be focused on promoting adoption of older children. Recent data suggest that half of the children waiting to be adopted are age 9 or older.

42 USC 637b  
note.

**SEC. 3. REAUTHORIZATION OF ADOPTION INCENTIVE PAYMENTS PROGRAM.**

(a) IN GENERAL.—Section 473A of the Social Security Act (42 U.S.C. 673b) is amended—

(1) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2)(A) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; or

“(B) the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year.”

(B) in paragraph (4), by striking “and 2002” and inserting “through 2007”; and

(C) in paragraph (5), by striking “2002” and inserting “2007”;

(2) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) DETERMINATION OF NUMBERS OF ADOPTIONS BASED ON AFCARS DATA.—The Secretary shall determine the numbers of foster child adoptions, of special needs adoptions that are not older child adoptions, and of older child adoptions in a State during each of fiscal years 2002 through 2007, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.”;

(3) in subsection (d)(1)—

(A) in subparagraph (A), by striking “and”;

(B) in subparagraph (B)—

(i) by inserting “that are not older child adoptions” after “adoptions” each place it appears; and

(ii) by striking the period and inserting “; and”;

and

(C) by adding at the end the following:

“(C) \$4,000, multiplied by the amount (if any) by which the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year.”;

(4) in subsection (g)—

(A) in paragraph (3), by striking subparagraphs (A) and (B) and inserting the following:

“(A) with respect to fiscal year 2003, the number of foster child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”;

(B) in paragraph (4)—

(i) in the paragraph heading, by inserting “THAT ARE NOT OLDER CHILD ADOPTIONS” after “ADOPTIONS”; and

(ii) by striking subparagraphs (A) and (B) and inserting the following:

“(A) with respect to fiscal year 2003, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of special needs adoptions that are not older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”; and

(C) by adding at the end the following:

“(5) **BASE NUMBER OF OLDER CHILD ADOPTIONS.**—The term ‘base number of older child adoptions for a State’ means—

“(A) with respect to fiscal year 2003, the number of older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.

“(6) **OLDER CHILD ADOPTIONS.**—The term ‘older child adoptions’ means the final adoption of a child who has attained 9 years of age if—

“(A) at the time of the adoptive placement, the child was in foster care under the supervision of the State; or

“(B) an adoption assistance agreement was in effect under section 473 with respect to the child.”;

(5) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “and”;

(ii) in subparagraph (C), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(D) \$43,000,000 for each of fiscal years 2004 through 2008.”; and

(B) in paragraph (2)—

(i) by inserting “, or under any other law for grants under subsection (a),” after “(1)”; and

(ii) by striking “2003” and inserting “2008”;

(6) in subsection (i)(4), by striking “1998 through 2000” and inserting “2004 through 2006”; and

(7) by striking subsection (j).

(b) **REPORT ON ADOPTION AND OTHER PERMANENCY OPTIONS FOR CHILDREN IN FOSTER CARE.**—Not later than October 1, 2004, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on State efforts to promote adoption and other permanency options for children in foster care, with special emphasis on older children in foster care. In preparing this report, the Secretary shall review State waiver programs and consult with representatives from State governments, public and private child welfare agencies, and child advocacy organizations to identify promising approaches.

Deadline.

**SEC. 4. AUTHORITY TO IMPOSE PENALTIES FOR FAILURE TO SUBMIT AFCARS REPORT.**

Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end the following:

“(f)(1) If the Secretary finds that a State has failed to submit to the Secretary data, as required by regulation, for the data collection system implemented under section 479, the Secretary shall, within 30 days after the date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

Deadlines.  
Notification.

“(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

“(A)  $\frac{1}{6}$  of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

“(B)  $\frac{1}{4}$  of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.”.

42 USC 673b  
note.

**SEC. 5. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on October 1, 2003.

Approved December 2, 2003.

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**LEGISLATIVE HISTORY—H.R. 3182:**

CONGRESSIONAL RECORD, Vol. 149 (2003):

Oct. 8, considered and passed House.

Nov. 12, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 39 (2003):

Dec. 2, Presidential remarks.