

113TH CONGRESS
1ST SESSION

H. R. 2604

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to authorize discretion to a State, county, or other political subdivision of a State to delay filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2013

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to authorize discretion to a State, county, or other political subdivision of a State to delay filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Help Separated Fami-
5 lies Act of 2013”.

6 **SEC. 2. IMMIGRATION STATUS ALONE NOT A DISQUALI-**
7 **FICATION FROM BEING A PLACEMENT FOR A**
8 **FOSTER CHILD.**

9 Section 471(a)(19) of the Social Security Act (42
10 U.S.C. 671(a)(19)) is amended—

11 (1) by striking “(19) provides that the State”
12 and inserting the following:

13 “(19) provides that—

14 “(A) the State”; and

15 (2) by adding after and below the end the fol-
16 lowing:

17 “(B) such standards shall ensure that the
18 immigration status alone of a parent, legal
19 guardian, or relative shall not disqualify the
20 parent, legal guardian, or relative from being a
21 placement for a child;”.

1 **SEC. 3. STATE PLAN REQUIREMENT TO ACCEPT CERTAIN**
2 **DOCUMENTS ISSUED BY FOREIGN ENTITIES**
3 **AS SUFFICIENT IDENTIFICATION FOR PUR-**
4 **POSES OF INITIATING A CRIMINAL RECORDS**
5 **CHECK OR A FINGERPRINT-BASED CHECK.**

6 Section 471(a)(20) of the Social Security Act (42
7 U.S.C. 671(a)(20)) is amended—

8 (1) in subparagraph (A), by inserting “which
9 procedures shall require the State (including the
10 State agency, the child welfare agency of any county
11 or other political subdivision of the State, and case-
12 workers and supervisors of any such agency) to ac-
13 cept a foreign consulate identification card, a foreign
14 passport, or such other foreign identification docu-
15 ment as may be allowed in regulations prescribed by
16 the Secretary, as sufficient identification for pur-
17 poses of initiating a criminal records check or a fin-
18 gerprint-based check,” before “including proce-
19 dures”; and

20 (2) in subparagraph (C), by inserting “, which
21 procedures shall require the State (including the
22 State agency, the child welfare agency of any county
23 or other political subdivision of the State, and case-
24 workers and supervisors of any such agency) to ac-
25 cept a foreign consulate identification card, a foreign
26 passport, or such other foreign identification docu-

1 ment as may be allowed in regulations prescribed by
2 the Secretary, as sufficient identification for pur-
3 poses of initiating a criminal records check or a fin-
4 gerprint-based check” before the semicolon.

5 **SEC. 4. STATE PLAN REQUIREMENT TO NOTIFY RELATIVES**
6 **SEEKING PLACEMENT OF A CHILD THAT**
7 **THEIR IMMIGRATION STATUS WILL NOT BE**
8 **QUESTIONED.**

9 Section 471(a)(29) of the Social Security Act (42
10 U.S.C. 671(a)(29)) is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (C);

13 (2) by adding “and” at the end of subpara-
14 graph (D); and

15 (3) by adding at the end the following:

16 “(E) the immigration status of any such
17 relative seeking placement of the child with the
18 relative shall not be questioned, except to the
19 extent necessary in determining eligibility for
20 relevant services or programs;”.

1 **SEC. 5. AUTHORIZE STATE DISCRETION TO DELAY FILING**
2 **FOR TERMINATION OF PARENTAL RIGHTS IN**
3 **FOSTER CARE CASES IN WHICH OTHERWISE**
4 **FIT AND WILLING PARENT OR RELATIVE HAS**
5 **BEEN REMOVED OR IS INVOLVED IN AN IMMI-**
6 **GRATION PROCEEDING, UNLESS CERTAIN**
7 **CONDITIONS HAVE BEEN MET.**

8 Section 475(5)(E) of the Social Security Act (42
9 U.S.C. 675(5)(E)) is amended by striking “; or” and in-
10 serting the following: “and a compelling reason in section
11 475(5)(E) for the State to not file (or join in the filing
12 of such a petition) shall include the removal of the parent
13 from the United States or the involvement of the parent
14 in (including detention pursuant to) an immigration pro-
15 ceeding, unless the parent is unfit or unwilling to be a
16 parent of the child. Before a State may file to terminate
17 the parental rights under such section 475(5)(E), the
18 State (or the county or other political subdivision of the
19 State, as the case may be) shall make reasonable efforts—
20 ”

21 “(I) to identify, locate, and con-
22 tact (including, if appropriate,
23 through the diplomatic or consular of-
24 fices of the country to which the par-
25 ent was removed or a parent or rel-
26 ative resides) any parent of the child,

1 who has been removed from the
2 United States, and where possible,
3 any potential adult relative of the
4 child (as described in section
5 471(a)(29));

6 “(II) to notify such a parent or
7 relative of the intent of the State (or
8 the county or other political subdivi-
9 sion of the State, as applicable) to file
10 (or join in the filing of) such a peti-
11 tion;

12 “(III) to reunify the child with
13 any such parent or relative; and

14 “(IV) provide and document ap-
15 propriate services to the parent or rel-
16 ative; or”.

1 **SEC. 6. REQUIREMENT OF THE DEPARTMENT OF HEALTH**
2 **AND HUMAN SERVICES TO PROVIDE GUID-**
3 **ANCE ON BEST PRACTICES FOR ESTAB-**
4 **LISHING MEMORANDUM OF UNDERSTANDING**
5 **OR AGREEMENTS WITH FOREIGN CON-**
6 **SULATES IN JUVENILE COURT CASES IN-**
7 **VOLVING IMMIGRANT CHILDREN OR CHIL-**
8 **DREN OF IMMIGRANTS IN FOSTER CARE AND**
9 **FOR OTHER PURPOSES.**

10 The Secretary of Health and Human Services, in con-
11 sultation with the Secretary of Homeland Security, the
12 Secretary of State, and immigration, international law,
13 and child welfare experts, shall develop and disseminate
14 to State, county, and local child welfare agencies best
15 practice guidance that takes into account the best interest
16 of the child, including a preference for family unity when-
17 ever appropriate, on the following:

18 (1) Establishing memoranda of understanding
19 or agreements with foreign consulates in juvenile
20 and family court cases, including procedures for con-
21 tacting a consulate and protections affording foreign
22 nationals the right to refuse contact with, or the
23 sharing of personal or identifying information with,
24 the government of their country of origin.

25 (2) Facilitating collection of children's nec-
26 essary legal documents prior to reunification with a

1 parent, legal guardian, or relative caregiver abroad,
2 including but not limited to passports and apostilled
3 birth certificates, health, and school records.

4 (3) Locating and notifying a detained parent,
5 legal guardian, or appropriate relative caregiver, and
6 assisting in family reunification efforts prior to or
7 after a parent's removal.

8 (4) Aiding the safe transfer of a child to the
9 parent's, legal guardian's, or relative caregiver's
10 country of residence.

11 (5) Communicating with relevant departments
12 and service providers in a parent's, legal guardian's,
13 or relative caregiver's country of origin to arrange
14 necessary placement and reunification services, in-
15 cluding but not limited to home studies, background
16 checks, and collection of necessary legal documents.

17 (6) Assisting a detained or deported parent,
18 legal guardian, or relative caregiver in meeting child
19 welfare case plan requirements, facilitating their
20 participation in family court hearings, and arranging
21 supervised visitations within the United States,
22 abroad, and at border facilities when appropriate.

1 **SEC. 7. CHILD WELFARE SERVICES FOR CHILDREN SEPA-**
2 **RATED FROM PARENTS DETAINED OR RE-**
3 **MOVED FROM THE UNITED STATES FOR IM-**
4 **MIGRATION VIOLATIONS.**

5 (a) STATE PLAN REQUIREMENTS.—Section 471(a)
6 of the Social Security Act (42 U.S.C. 671(a)) is amend-
7 ed—

8 (1) by striking “and” at the end of paragraph
9 (32);

10 (2) by striking the period at the end of para-
11 graph (33) and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(34) provides that the State shall—

14 “(A) ensure that the case manager for a
15 separated child is capable of communicating in
16 the native language of such child and of the
17 family of such child, or an interpreter who is so
18 capable is provided to communicate with such
19 child and the family of such child at no cost to
20 the child or the family of such child;

21 “(B) coordinate with the Department of
22 Homeland Security to make every effort to en-
23 sure that parents who wish for their child to ac-
24 company them to their country of origin are
25 given adequate time and assistance to obtain a
26 passport and visa, and to collect all relevant

1 vital documents such as birth certificate, health,
2 and educational records, and other information;

3 “(C) preserve, to the greatest extent pos-
4 sible, the privacy and confidentiality of all infor-
5 mation gathered in the course of administering
6 the care, custody, and placement of, and follow-
7 up services provided to, a separated child, con-
8 sistent with the best interest of such child, by
9 not disclosing such information to other govern-
10 ment agencies or persons (other than a parent,
11 legal guardian, or relative caregiver or such
12 child), except that the head of the State agency
13 (or the county or other political subdivision of
14 the State, as applicable) may disclose such in-
15 formation, after placing a written record of the
16 disclosure in the file of the child—

17 “(i) to a consular official for the pur-
18 pose of reunification of a child with a par-
19 ent, legal guardian, or relative caregiver
20 who has been removed or is involved in an
21 immigration proceeding, unless the child
22 has refused contact with, or the sharing of
23 personal or identifying information with,
24 the government of their country of origin;

1 “(ii) when authorized to do so by the
2 child (if the child has attained 18 years of
3 age) if the disclosure is consistent with the
4 best interest of the child; or

5 “(iii) to a law enforcement agency if
6 the disclosure would prevent imminent and
7 serious harm to another individual; and

8 “(D) not less frequently than annually,
9 compile, update, and publish a list of entities in
10 the State that are qualified to provide legal rep-
11 resentation services for a separated child, in a
12 language such that a child can read and under-
13 stand.”.

14 (b) ADDITIONAL INFORMATION TO BE INCLUDED IN
15 CASE PLAN.—Section 475(1) of such Act (42 U.S.C.
16 675(1)) is amended by adding at the end the following:

17 “(H) In the case of a separated child with
18 respect to whom the State plan requires the
19 State to provide services pursuant to section 16
20 471(a)(34)—

21 “(i) the location of the parent or legal
22 guardian referred to in paragraph (9)(A)
23 of this subsection from whom the child has
24 been separated; and

1 “(ii) a written record of each disclo-
2 sure to a government agency or person
3 (other than such a parent or legal guard-
4 ian) of information gathered in the course
5 of tracking the care, custody, and place-
6 ment of, and follow-up services provided to,
7 the child.”.

8 (c) SEPARATED CHILD DEFINED.—Section 475 of
9 such Act (42 U.S.C. 675) is amended by adding at the
10 end the following:

11 “(9) The term ‘separated child’ means an indi-
12 vidual who—

13 “(A) has a parent or legal guardian who
14 has been detained by a Federal, State, or local
15 law enforcement agency in the enforcement of
16 an immigration law, or removed from the
17 United States as a result of a violation of such
18 a law; and

19 “(B) is in the care or supervision of a
20 State.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the first day of the first
23 calendar quarter that begins after the 1-year period that
24 begins with the date of the enactment of this Act.

1 **SEC. 8. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as otherwise provided in
3 this Act, the amendments made by this Act shall take ef-
4 fect on the first day of the first fiscal year beginning on
5 or after the date of the enactment of this Act, and shall
6 apply to payments under part E of title IV of the Social
7 Security Act for calendar quarters beginning on or after
8 such date.

9 (b) DELAY PERMITTED IF STATE LEGISLATION RE-
10 QUIRED.—If the Secretary of Health and Human Services
11 determines that State legislation (other than legislation
12 appropriating funds) is required in order for a State plan
13 approved under part E of title IV of the Social Security
14 Act to meet the additional requirements imposed by the
15 amendments made by this Act, the plan shall not be re-
16 garded as failing to meet any of the additional require-
17 ments before the first day of the first calendar quarter
18 beginning after the first regular session of the State legis-
19 lature that begins after the date of the enactment of this
20 Act. For purposes of the preceding sentence, if the State
21 has a 2-year legislative session, each year of the session
22 is deemed to be a separate regular session of the State
23 legislature.

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