

118TH CONGRESS
2D SESSION

S. 5214

To require States to measure and publicly report on the separation of children from parents by hidden foster care arrangements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. CORNYN (for himself and Mr. OSSOFF) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To require States to measure and publicly report on the separation of children from parents by hidden foster care arrangements, 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 “Foster Care Placement
5 Transparency Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In some circumstances, upon a family first
9 coming to the attention of a child protective services
10 agency, for various reasons, a child may newly enter

1 a hidden foster care arrangement either as a direct
2 or indirect result of contact with the child protective
3 services agency.

4 (2) While a hidden foster care arrangement
5 may be in the best interests of a child, there is no
6 measure of the extent to which hidden foster care
7 arrangements are used by States.

8 (3) Because hidden foster care arrangements
9 are made upon the initial contact of a family by a
10 child welfare agency, such arrangements are also the
11 first opportunity States may have to provide support
12 to the new caregivers to a child who is in a hidden
13 foster care arrangement and serve the best interests
14 of the child.

15 (4) However, due to a lack of understanding of
16 the instances in which hidden foster care arrange-
17 ments are used throughout States, it is difficult to
18 determine how the needs of children, their new care-
19 givers, and families can be best supported in cases
20 of hidden foster care arrangements as well as the
21 manner in which Federal funds or oversight could be
22 best directed to support States in their work with
23 these cases.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) HIDDEN FOSTER CARE ARRANGEMENT.—
2 The term “hidden foster care arrangement” means
3 any separation of a child from the child’s parents or
4 primary caregivers during an investigation by a
5 State, county, local, or tribal child protective services
6 agency (in this Act referred to as a “CPS agency”)
7 that occurs without the State taking responsibility
8 for the care or placement of the child and without
9 a court order or the involvement and oversight of a
10 court of law, whether voluntary or involuntary. Such
11 term includes—

12 (A) arrangements in which a CPS agency
13 suggests, implies, or insists that a parent
14 should or must permit the parent’s child to live
15 with someone else in response to an investiga-
16 tion of allegations that the parent, or a spouse,
17 partner, or other individual who resides with
18 the parent, has neglected or abused the child;
19 and

20 (B) arrangements commonly referred to as
21 “kinship diversion,” “foster care diversion,”
22 “safety planning,” and “informal family plan-
23 ning” to the extent that these arrangements
24 occur without a court order or court oversight.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Health and Human Services.

3 (3) STATE.—The term “State” has the mean-
4 ing given that term in section 1101(a) of the Social
5 Security Act (42 U.S.C. 1301(a)) for purposes of
6 parts B and E of title IV of such Act (42 U.S.C.
7 621 et seq., 671 et seq.).

8 **SEC. 4. STATE REPORTS ON HIDDEN FOSTER CARE AR-**
9 **RANGEMENTS.**

10 As a condition for payment of funds under a State
11 plan approved under the Marylee Allen Promoting Safe
12 and Stable Families Program under subpart 2 of part B
13 of title IV of the Social Security Act (42 U.S.C. 629 et
14 seq.) for each reporting period beginning with the first
15 year that begins on or after the date that is 2 years after
16 the date of enactment of this Act, a State shall submit
17 to the Secretary with the report required under section
18 432(a)(8)(B) of such Act (42 U.S.C. 629b(a)(8)(B)) for
19 the fiscal year involved, data and a written report that
20 specifies, for each such fiscal year—

21 (1) the number of children separated from their
22 parents by a hidden foster care arrangement;

23 (2) the number of hidden foster care arrange-
24 ments that ended without the child entering the for-
25 mal foster care system;

1 (3) the number of hidden foster care arrange-
2 ments that ended through the placement of the child
3 into the formal foster care system;

4 (4) the category or type of allegation raised in
5 each case which resulted in a separation of a child
6 from their parents by a hidden foster care arrange-
7 ment; and

8 (5) to the extent data is available, the number
9 of caregivers in a hidden foster care arrangement
10 who received additional services including referrals
11 to kinship navigator programs, prevention services
12 programs funded under part B or E of title IV of
13 the Social Security Act (42 U.S.C. 621 et seq., 671
14 et seq.), services provided by an entity or organiza-
15 tion other than a CPS agency, or to legal counsel.

16 **SEC. 5. SECRETARIAL RESPONSIBILITIES.**

17 (a) ANNUAL REPORT TO CONGRESS ON HIDDEN
18 FOSTER CARE PRACTICES.—The Secretary shall submit
19 an annual report to Congress based on the most recent
20 State reports submitted under section 4. Each annual re-
21 port shall include the following:

22 (1) The total number of children for whom a
23 hidden foster care arrangement ended during the fis-
24 cal year reported on, and of that number—

1 (A) how many of the hidden foster care ar-
2 rangements ended without the child entering
3 the formal foster care system; and

4 (B) how many of the hidden foster care ar-
5 rangements ended through the placement of the
6 child into the formal foster care system.

7 (2) The total number of each category or type
8 of allegation raised in a case which resulted in a sep-
9 aration of a child from their parents by a hidden
10 foster care arrangement.

11 (3) To the extent data is available, the number
12 of caregivers in a hidden foster care arrangement
13 who received additional services, including referrals
14 to kinship navigator programs, prevention services
15 programs funded under part B or E of title IV of
16 the Social Security Act (42 U.S.C. 621 et seq., 671
17 et seq.), services provided by an entity or organiza-
18 tion other than a CPS agency, or legal counsel.

19 (4) A summary of the number of States that
20 submitted a report under section 4 for the fiscal
21 year involved and the way in which those States ad-
22 dress hidden foster care arrangements within the
23 most recent State plan reports submitted part B or
24 E of title IV of the Social Security Act (42 U.S.C.
25 621 et seq., 671 et seq.).

1 (b) IMPLEMENTATION.—

2 (1) CONSISTENT DATA.—The Secretary shall
3 ensure that, to the extent practicable, the data and
4 information required to be reported under section
5 4—

6 (A) is collected and reported in a reliable
7 and standardized manner by all States;

8 (B) provides a comprehensive, national pic-
9 ture of the practice of hidden foster care ar-
10 rangements; and

11 (C) draws upon and does not duplicate
12 other required child welfare data collection and
13 reporting regarding children for, or on whose
14 behalf, prevention services are offered, including
15 under section 471(e)(5)(B)(x) of the Social Se-
16 curity Act (42 U.S.C. 671(e)(5)(B)(x)), section
17 479 of such Act (42 U.S.C. 679), and subpara-
18 graphs (C) and (D) of section 103(c)(1) of the
19 Child Abuse Prevention and Treatment Act and
20 106(d) of the Child Abuse Prevention and
21 Treatment Act (42 U.S.C. 5103(c)(1),
22 5106a(d)).

23 (2) GUIDANCE; TECHNICAL ASSISTANCE.—The
24 Secretary may use funds made available to carry out
25 part B of title IV of the Social Security Act (42

1 U.S.C. 621 et seq.) to issue guidance or provide
2 technical assistance to States with respect to the
3 data and information required to be reported under
4 section 4.

5 (3) PUBLICATION AND MANNER OF SUBMIS-
6 SION.—The Secretary—

7 (A) may include the report required by
8 subsection (a) in the annual compilation of
9 State reports required to be submitted to Con-
10 gress under section 432(c) of the Social Secu-
11 rity Act (42 U.S.C. 629b(e)); and

12 (B) shall make each report submitted to
13 Congress in accordance with subsection (a) pub-
14 licly available.

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