



## Children's Monitor

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### *Senate Pushes December 9 CR, Early Departure*

There appeared to be progress in appropriations discussions after the first week back. Senate Majority Leader Mitch McConnell (R-KY) announced early in the week that the Senate would be proposing a CR that would extend funding to December 9, 2016. That came as a rebuff to more conservative House members who had and still are pushing for a CR to March of 2017. By the end of the week it was suggested that if the Senate could get a deal they may leave this week.

The progress on a CR seemed to come after the Senate Democrats rejected a Zika virus bill for the third time. Democrats object to its funding level and provisions attempting to restrict any of the funding to going to Planned Parenthood health clinics. After that vote serious discussions started and it is believed that any deal on Zika will be passed as part of the CR. That could also be true of a package to provide assistance to Flint, MI and some other cities attempting to deal with lead in their water systems.

Meanwhile on the House side, Speaker Paul Ryan (R-WS) was trying to convince his members to go with a shorter CR to run into December. As part of that effort he has suggested that when they return in December they should pass a series of bill that would bundle combinations of the 12 appropriations, instead of an omnibus of 12 appropriations bills he has referred to these smaller packages as “minibus bills.”

The Senate CR would extend current funding levels into December with a few attachments such as an extension of the TANF block grant. It may include other similar measures—perhaps Title IV-B programs if no action is taken on the Families First Act. (see below). It is likely that when and if Congress agrees to a CR they will leave Washington until

*Also This Week:*

**---FAMILIES FIRST  
ACT RUNNING  
SHORT ON TIME---**

**--SAFE CARE  
PLANS--**

**--YOUTH SUPPORT  
BILLS--**

**-GAO ON TRIBES--**

**--JJDP  
REAUTHORIZATION--**

**-REGISTER TO  
VOTE BELOW-**

mid to late November for leadership decisions for the next 115<sup>th</sup> Congress.

### *Waiting on Families First Act, Time Running Short*

There was little progress to report in regard to the passage of the [\*Family First Prevention Services Act\*](#), (HR 5456, [\*Conference Report 114-628\*](#)). Its only path forward would appear to be a voice vote in the Senate with perhaps some assurances from sponsors and other parties to interpret the legislation in a way that will address concerns expressed by opponents.

There are at least three Senate “holds,” that is individual senators objecting to moving the bill on a voice vote. Although holds do not require a public declaration by the objecting senators it is being circulated and written about in some publications that Senator Barbara Boxer (D-CA), Senator John Cornyn (R-TX) and Senator Mike Enzi (R-WY) are objecting at this time. With the Senate procedure a senator can place a hold on a bill when there is a move to bring it to the floor. The Senate does not require members to go public so it is possible other senators have or would object if others lift their holds.

Opponents have argued for the bill to be stopped unless there are changes while supporters argue there is no possibility of a potentially lengthy amendment process. If action isn't taken, supporters argue that the bill and its significant changes in funding will end not just for 2016 but for years to come.

On Tuesday, at the start of this fall session, the four main sponsors, Senator Orrin Hatch (R-UT), Senator Ron Wyden (D-OR), Congressman Kevin Brady (R-TX), Congressman Sander Levin (D-MI) authored an op-ed piece in the *Washington Post*, [\*A Better Way to Help Vulnerable Families and Children\*](#). In a positive piece that described the role of quality foster care they emphasized the benefits of the expanded services the bill would provide saying,

*“Every year, thousands of American children are taken from their homes and placed in foster care... For many children, foster care is absolutely necessary and even lifesaving. Many of those children find stability they never had thanks to the tireless work of dedicated social workers, foster parents, judges and treatment providers...”*

Highlighting the need for a restructuring they said they came together in bipartisan fashion, saying,

*“Foster care should be limited, temporary and high-quality. Under this bill, instead of having a system that just pays for foster care, states would receive federal support to strengthen families through substance abuse treatment, mental-health services and in-home parenting programs — to allow parents or other relatives to get the help they need to safely care for their kids.”*

Proponents, including [CWLA](#) have endorsed the legislation (description of legislation [here](#)) because on balance we believe that over the long term, the expansion of entitlement funding through Title IV-E for mental health and drug treatment and some limited in-home services offers a potential historic funding source for two behavioral health needs that

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have not been addressed by many state Medicaid programs over the fifty year history of that program. Instead of an income-based eligibility there would be an eligibility based on whether or not the child is at-risk of a foster care placement and considered a “candidate for foster care.”

For these candidates, the child, the parent, guardian or adoptive family would be eligible for services for up to 12 months in a spell but not limited in a lifetime. Services would also be available to a foster youth who is pregnant or parenting. Eligible services would be limited to promising, supported and well-supported programs with the bulk of funding directed toward well-supported-HHS-approved services.

Over the weekend the *Los Angeles Times*, in an editorial [Landmark Foster Care Bill Requires Some Work](#), editorial writers generally praised the legislation but argued that it should be amended saying,

*[the problem] “There wouldn’t be one in many states, where lawmakers are stuck in a mid-20<sup>th</sup> century mindset about foster care...This legislation could finally push those jurisdictions into smarter and more cost-efficient practices...But California is one of several forward-looking states that already have made great strides in prevention and finding productive alternatives to foster care. In fact, California is on the verge of further reforms...”*

If the Families First Act doesn’t move before October 1, then Congress will have to decide how to reauthorize the two Title IV-B programs: Child Welfare Services and the Promoting Safe and Stable Families as well as the Adoption and Legal Guardianship Incentive Fund. Two of these funds are dependent on annual apportionments, Child Welfare Services and the Incentive Fund. Both the Senate and House Labor-HHS bills would continue current funding and that would be unlikely to change even without a reauthorization. For PSSF the situation is more precarious. The \$20 million in mandatory court funding would disappear (the \$20 million is not in current Labor-HHS bills). The larger part of PSSF includes \$345 million in mandatory funds (some designated for courts) and it is unclear how long that law could go without reauthorization beyond October 1. The Congressional Budget Office might categorize an extension, if it doesn’t occur in a reasonable time, as “new” federal spending requiring new offsets.

While the time clock to act runs out on October 1, at the latest, it could be a great deal shorter. In all likelihood Congress will take off as soon as they get a deal for a CR and that is looking

sooner rather than later with some senators expressing a desire to leave as soon as this week to get back to campaigning.

There is also no set methodology for how fast this bill could go. Members could drop their hold or continue them to the end. The October 1, start of the fiscal year would also trigger the next phase-out of the adoption assistance delink which was a major part of the way to pay for this legislation.

### *GAO Report on Tribes: APPLA and Need for Resources*

The Government Accountability Office (GAO) has issued a new report on how tribal governments are addressing the eventual restrictions on the foster care placement category of “another planned permanent living arrangement” or APPLA for youth in foster care.

The report, [\*Most Tribes Do Not Anticipate Challenges with Case Goal Changes, but HHS Could Further Promote Guardianship Assistance\*](#), was conducted to determine how tribal placements will be effected by the requirements to restrict the use of the APPLA category for tribal youth. The GAO concluded that, based on interviews and surveys of representatives from approximately thirty-six tribes, officials did not believe they would have difficulty with the new requirements and restrictions on APPLA for youth 16 and older. They did however indicate that placing youth 16 and older was a challenge due to a lack of foster homes and permanency options such as kinship-guardianship homes.

The category of APPLA found its roots in the 1997 Adoption and Safe Families Act (ASFA), when Congress prohibited what was then described as “long-term foster care” for children that were expected to remain in foster care until adulthood due to special circumstances. It was

*OVERALL 16.1 PERCENT OF INDIAN CHILDREN ARE IN THE CATEGORY OF APPLA WHILE 16.8 PERCENT OF NON-INDIAN CHILDREN WERE IN THIS CATEGORY. NEARLY 60 PERCENT OF THE INDIAN CHILDREN IN APPLA WERE 16 OR OLDER WHILE OVER 75 PERCENT OF NON-INDIAN CHILDREN WERE 16 OR OLDER AMONG THE APPLA CATEGORY.*

believed that too many children were remaining without a permanency plan and that creating new requirements through ASFA and designating another planned permanency living arrangement would change that. The changes included greater court oversight combined with compelling reasons to remain in care.

Over time many advocates felt that long term foster care category had morphed into APPLA. At times some had advocated for a full elimination of the category of APPLA, instead the 2014 amendments to the law prohibited APPLA for children under 16 along with additional court oversight and oversight requirements for young people 16 and older. At the time of the 2014 law concerns were expressed how tribes might be effected by these changes due to differing and

cultural practices. The delay for tribes will expire by 2017 (FY 2018). That prompted this GAO report.

What GAO found was that tribal officials did not anticipate challenges associated with the limitations on the use of APPLA. A majority of tribal officials indicated a limited use of APPLA or not using it at all. Those that did use APPLA for older children told the GAO that it was more difficult to find permanency for children due to a number of challenges including: a lack of services for older youth, greater difficulty in finding adoptive homes for older children, children not wanting to be either adopted or placed into a guardianship; and children with severe health issues.

Overall 16.1 percent of Indian children are in the category of APPLA while 16.8 percent of non-Indian children were in this category. Nearly 60 percent of the Indian children in APPLA were 16 or older while over 75 percent of non-Indian children were 16 or older among the APPLA category. In terms of placement settings for Indian and non-Indian children, Indian children had less institutional care than non-Indian children:

- Supervised Independent living: 10% non-Indian children, 5.5% Indian children
- Institutions: 16% non-Indian children, 13.1 % Indian children
- Group Homes: 13.9 % non-Indian children, 13.1% Indian children
- Non-relative Foster Family Home: 44.8 % non-Indian children, 50.1% Indian children
- Relative Foster Family Home: 6.7% non-Indian children, 11.1 % Indian children

In terms of other challenges outlined in finding a permanent family for children and youth in foster care, out of the 36 tribes providing information, seven listed cultural opposition to federal requirements regarding the termination of parental rights, 9 listed differences in state and tribal relative definitions, 15 cited state or federal licensing requirements and 21 cited the constraints resulting from a lack of or insufficient services and supports.

The GAO report goes into greater detail regarding some of these barriers listed by tribal leaders. Under resource constraints tribes included a lack of foster homes particularly when it came to caring for children with special needs and a lack of therapeutic and inpatient care related to the tribe's rural location.

The GAO recommended greater assistance by HHS to tribes particularly in regard to kinship care/subsidized guardianships. They note that just 33 states and 6 tribes were using the IV-E option under the 2008 Fostering Connections to Success Act and that such guardianship programs could assist in the placement of these Indian children.

### *HHS Issues Guidance on CAPTA Safe Care*

At the end of August, HHS issued an information memorandum (ACYF-CB-IM-16-0) to inform and assist states in implementing a "Plan of Safe Care" under the Child Abuse Prevention and

Treatment Act (CAPTA) as amended by the recent *Comprehensive Addiction and Recovery Act* of 2016 *the “CARA” legislation*.

The drug treatment reform bill amended CAPTA in regard to a plan of safe care and directs HHS in a number of areas and requires states to address the health and substance use disorder and treatment needs of the infant and family caregiver, and directs a system of monitoring.

In the new Information Memorandum, HHS provides a description of the new requirements under CAPTA and describes some elements of a safe care plan including

- Early identification, screening and engagement of pregnant women who are using substances.
- Appropriate treatment for pregnant women, including timely access, comprehensive medication and guidelines and standards for treatment
- Consistent hospital screening pregnant women, postpartum women and their infants
- Consistent hospital notifications to CPS, including questions and responses that will help CPS hotline workers assess risk and protective factors and safety concerns
- Memoranda of Agreement for information sharing and monitoring infants and families across systems
- Ongoing care plans for mothers and their infants that include home visitation, early intervention services and recovery supports; and plans of safe care that are of sufficient duration

In addition, the memorandum provides some links to potential resources including “*A Collaborative Approach to the Treatment of Pregnant Women with Opioid Use Disorders: Practice and Policy Considerations for Child Welfare, Collaborating Medical and Service Providers*.” That document provides a case study of an effort in Burlington, Vermont that brings together a multidisciplinary group of agencies serving women with opioid use disorders. Vermont has faced a major expansion in opioid addiction and use so much so that the Governor has highlighted the statewide problem in an earlier state of the state address.

Congress expanded previous requirements under CAPTA that attempts to address the substance use issue for infants exposed at birth. The new provisions are more specific for states and more directive of HHS. What Congress did not do is provide an increase in CAPTA state grants that are now under \$26 million for all fifty states and the territories.

## *Legislation Targets Strategies To Assist Foster Youth*

In recent weeks two bills have been introduced that attempt to assist youth in foster care and while the bills are being introduced late in this Congress they set a marker for future action in the next Congress.

Last week Congressman Jim McDermott (D-WA) was joined by a group of bipartisan legislators in introducing a bill to expand the Work Opportunity Tax Credit to cover former foster youth. The credit is a decades old credit that provides incentives to employers who hire certain low income or vulnerable class of workers including veterans, SNAP recipients, and some youth who participate in the summer youth employment program. CWLA has endorsed the legislation. [\*HR 5947, Improved Employment Outcomes for Foster Youth Act 2016\*](#) which is cosponsored by Congressman Dave Reichert (R-WA), Congressman Lloyd Doggett (D-TX), Congressman Danny Davis (D-IL), Reed (R-NY), and Congressperson Karen Bass (D-CA).

Congressman Danny Davis is also a sponsor of [\*HR 5737 Protecting Foster Youth Resources to Promote Self Sufficiency Act\*](#). The bill amends the Supplemental Security Insurance (SSI) program to prohibit a state agency serving as representative payee for an eligible individual in foster care under state responsibility from using SSI benefits to reimburse state government costs of Title IV-E when the child is in foster care. It would also direct states to take certain actions to make sure they determine and apply for benefits on behalf of the child when they are eligible for SSI either as a result of disability or as a survivor. Funds would have to be provided to the youth in an account.

## *Bipartisan Juvenile Justice Bill Introduced in House*

At the end of last week, a bipartisan bill was introduced in the House of Representatives to reauthorize the Juvenile Justice Delinquency Prevention ACT (JJDPA). The members supporting the long-awaited reauthorization include Congressman Carlos Curbelo (R-FL) and Education and Workforce Ranking Member Bobby Scott (D-VA), Committee Chairman John Kline (R-MN) Congressman Buddy Carter (R-GA) and Congresswoman Frederica Wilson (D-FL).

The [\*Supporting Youth Opportunity and Preventing Delinquency Act\*](#), as described by sponsors would provide states and local leaders flexibility to deliver services that meet the specific needs of delinquent youth in their communities and help at-risk youth avoid the juvenile justice system by supporting prevention services and programs. It would also increase accountability and oversight at all levels of the juvenile justice system.

It has been more than a decade since the Act has been reauthorized. The Senate had made bipartisan progress on a reauthorization earlier this Congress but movement of a Senate bipartisan deal has been blocked by Senator Tom Cotton (R-AR) who has placed a hold on that bill. Some of his objections relate to the provisions of the Senate bill that attempt to reduce the

number of juveniles who are placed in jail due to “status offense” issues. These are youth who end up incarcerated for violating laws related to their youth status (e.g. curfew violations, underage drinking, skipping schools, etc.). Upon introduction Congressman Curbelo said,

*“Many children are born into circumstances out of their control and believe the only path forward is one of crime or delinquency. The purpose of this legislation is to help those children understand there is a better path forward and success is within their reach. These bipartisan reforms will deliver state and local leaders the tools they need to help the most vulnerable kids in their communities put the past behind them and work toward a brighter future. ...”*

To read a fact sheet on the bill, click [here](#), a detailed bill summary, click [here](#) and to read the bill, click [here](#).

### UPCOMING CAPITOL HILL BRIEFINGS/EVENTS

- [REGISTER TO VOTE—Here](#)—One Site Can Give You Information and Access to Your State’s Voter Registration Requirements, Deadlines and On-line Services
- **Briefing on Right to Counsel**, First Focus, the Children’s Advocacy Institute, the National Association of Counsel for Children, and the American Bar Association Center on Children and the Law, **September 12, 1:30 PM, Rayburn Gold Room (2168 Rayburn)**.
- **Reducing Poverty and Increasing Opportunity: Envisioning the Next 20 Years**, Tuesday, September 13, 2016, 12:00 p.m. to 1:30 p.m, Lunch will be available at 11:30 a.m., Urban Institute: 2100 M Street NW, 5th floor, Washington, DC 20037, [Register Here](#)
- **Resilience: The Biology of Stress & Science of Hope**, filmmakers from KPJR Films and a panel of experts on childhood trauma, toxic stress and mental illness, **Wednesday, September 21, 2:30—4:00, RSVP, Capitol Visitors Center, Room SVC 201**
- **Voice for Adoption**, the Adoptive Family Portrait Project, **November 16, 2:00, Location, Senate Dirksen Office Building, Room G-11**