

Side-by-Side Comparison of Child Welfare Provisions in Recent TANF Reauthorization Proposals

by Rutledge Q. Hutson and Nisha Patel (Updated August 16, 2002)

This document is part of a larger project by CLASP and the Center on Budget and Policy Priorities, which includes side-by-sides on many aspects of proposed TANF reauthorization legislation. This document summarizes and compares the child welfare-related provisions in current law and ten TANF reauthorization proposals:

- The bill introduced by Rep. Pryce (R-OH) that passed in the House of Representatives (H.R. 4737) on May 16, 2002 (*provisions in the Bush Administration's plan that differ from the House bill are indicated in bold italics*).
- The Democratic substitute to H.R. 4737 offered in the House of Representatives by Reps. Cardin (D-MD), Woolsey (D-CA), and Kind (D-WI).
- A bill, in the nature of a substitute to H.R. 4737, introduced by Sen. Baucus (D-MT) and passed by members of the Senate Finance Committee on June 26, 2002.
- Principles released by a group of Senators on the Health, Education, Labor, and Pensions (HELP) Committee and other Senators in the form of a letter to Senators Baucus and Grassley.
- A bill (S. 2052) introduced by Sen. Rockefeller (D-WV) and referred to the Senate Finance Committee. Legislative language is not yet available, so the information in this side-by-side comes from a summary of the mark and of modification made during the mark-up.
- A bill (S. 2524) introduced by Sen. Bayh (D-IN) and Sen. Carper (D-DE) and referred to the Senate Finance Committee.
- A bill (S. 2648) introduced by Sen. Hutchinson (R-AR) and Sen. Sessions (R-AL) and referred to the Senate Finance Committee. This bill is the Senate version of H.R. 4737 and thus has very similar provisions to H.R. 4737 and the Administration's proposal. Differences between the bills are noted (*in bold italics*) in the column for H.R. 4737.
- A bill (S. 2610) introduced by Sen. Wellstone (D-MN) and Sen. Corzine (D-NJ) addressing barriers to employment is summarized at the end of this document.
- A bill (S. 2876) introduced by Sen. Murray (D-WA) addresses a variety of issues relating to building secure and healthy families. The provisions related to child welfare are summarized at the end of this document.
- A bill (S. 2878) introduced by Sen. Feingold (D-WI) addresses a number of issues related to due process and fair treatment. The provisions dealing with sanctions are summarized at the end of this document.

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Kinship Caregivers <i>Also see Murray (S. 2876) at the end of this document.</i>	Kinship caregivers are subject to time limits and work requirements if they are part of the family grant. They are not subject to time limits and work requirements if the grant is based solely on the needs and income of the child (a child-only grant).	Current law.	Current law.	Does not address.	Does not address.	Current law.	Current law.

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Fiscal Links Between Child Welfare & TANF	<p>To be eligible for a TANF block grant, a state must certify that it will continue to operate its foster care and adoption assistance program.</p> <p>Eligibility for federal foster care and adoption assistance is tied to the AFDC eligibility criteria in place on July 16, 1996.</p> <p>TANF purposes permit spending on an array of child welfare services. For example, the first purpose of TANF is to “provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives.”</p> <p>Through a “grandfather clause,” a state is permitted to use TANF funds in any manner previously authorized under its Emergency Assistance (EA) plan.¹</p>	<p>Current law, except as noted below.</p> <p>Modifies the grandfather clause to permit a state to use TANF funds for any purpose previously authorized under its EA plan. This arguably broadens the authority of states to spend TANF on any child welfare (or juvenile justice) activity if the state was previously authorized to spend TANF for some child welfare (or juvenile justice) activity.</p> <p><i>(The Bush Administration’s plan did not modify the grandfather clause.)</i></p>	Current law.	<p>Current law, except as noted below.</p> <p>Beginning in FY04, permits an Indian tribe or intertribal consortium to operate a foster care and adoption assistance program under Title IV-E and receive reimbursement for eligible costs directly from HHS.</p>	Does not address.	<p>Current law, except as noted below.</p> <p>Gives each state the option to increase the income and resource standards and methodologies of the 1996 AFDC criteria, up to the level of the income and resource standards and methodologies used in the current TANF plan, to determine eligibility for federal foster care and adoption assistance.</p>	Current law.

¹The Social Service Block Grant is a major federal source of funding for child welfare services. This funding stream was reduced by the 1996 welfare law and states are permitted to transfer a portion of their TANF block grants to SSBG. For more detail on the current law and the SSBG provisions in the other TANF proposals, see the side-by-side on funding provisions.

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Collaboration Between Child Welfare & TANF	No specific provisions or requirements – although some collaboration efforts are underway in some states and localities.	Sets aside \$2 million per year for demonstration projects that seek to coordinate the provision of tribal child welfare and TANF services. <i>(The Bush Administration's plan did not include this provision.)</i>	Current law.	Does not address.	Does not address.	Current law.	Current law.
Countable Activities Include Services to Address Barriers <i>Also see Wellstone-Corzine (S. 2610) and Murray (S. 2876) at the end of this document.</i>	Generally not. See side-by-side on work-related provisions for more details.	Yes, for up to 3 months in a 24-month period and for hours beyond the initial 24 hours, which must be “direct work.” See side-by-side on work-related provisions for more detail on countable activities.	Yes. Counts participation in services designed to improve future employment opportunities, including substance abuse treatment, services to address sexual or domestic violence, and physical rehabilitation and mental health services for up to 6 months. See side-by-side on work-related provisions for more detail on countable activities.	Yes, states can count “rehabilitative” activities, including substance abuse treatment, mental health treatment, vocational rehabilitation services, adult basic education, and limited English proficiency services as full-time activities for up to 3 months out of 24 months, plus an additional 3 months if combined with work or job readiness activities. After 6 months, these activities may count toward hours in excess of first 24 hours of participation. See side-by-side on work-related provisions for more detail on countable activities.	Yes. The letter indicates that time spent in barrier removal activities should count toward work requirements. Activities should include participation in programs to address domestic violence, substance abuse, physical or mental impairments, limited English proficiency, limited literacy, learning disabilities, and caring for sick or disabled children.	Increases the ability to count certain education and English as a Second Language activities, but not other activities to address barriers. See side-by-side on work-related provisions for more detail on countable activities.	Yes, but generally only after the individual has engaged in 20-24 hours of “core work activities.” If an individual engages in core work activities for 20 hours and self-sufficiency activities for 20 hours, the state would receive full credit toward the participation requirements. If the individual engages in at least 24 hours of core work activities, but less than 13 hours of self-sufficiency activities, the state would receive partial credit

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				<p>In addition, the bill gives states the option to exempt those caring for a disabled child or other relative from the work requirements. The bill caps the use of this exemption at 10% of the current year or prior year average caseload.</p>			<p>towards the participation requirements. If the individual participates in at least 24 hours of core work activities and at least 16 hours of self-sufficiency activities, the state would get 125% credit towards the participation requirement.</p> <p>Also, the state may opt not to require individuals addressing barriers to work (such as substance abuse, mental health disorders, depression, having experienced domestic violence, or being in need of significant job training) to engage in work and to disregard such individuals from the participation rate for up to 3 months within a 24-month period.</p> <p>See side-by-side on work-related provisions for more detail on countable activities.</p>

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<p>Assessment for Barriers</p> <p><i>Also see Wellstone-Corzine (S. 2610) and Murray (S. 2876) at the end of this document.</i></p>	<p>Not specifically. The initial assessment is of recipients' skills, prior work experience, and "employability." The latter assessment may detect barriers.</p>	<p>Requires assessment "in the manner deemed appropriate by the State" of skills, prior work experience, and "employability." As with current law, this assessment may detect barriers.</p> <p><i>(The Bush Administration's plan appeared to eliminate the assessment provision.)</i></p>	<p>Yes, amends assessment provision to require, for each head of household, an assessment of "skills, prior work experience, and circumstances related to the employability of the recipient, including physical or mental impairments, proficiency in English, child care needs, and whether the recipient is a victim of domestic violence."</p>	<p>In addition to current law, requires states to screen and assess whether parents/caretakers receiving assistance face barriers to employment and requires these recipients to participate with the state in development of an Individual Responsibility Plan (IRP). The IRP must address the issue of child well-being and, if appropriate, adolescent well-being.</p> <p>The bill provides \$120 million over 4 years (FY2003-FY2006) to help states implement new universal engagement rules. Among other purposes, these funds can be spent on training for and quality improvement of TANF agency staff and on establishing an advisory panel on improving policies and procedures for assisting individuals with barriers.</p> <p>See side-by-side on work-related provisions for more detail on assessments.</p>	<p>Does not address.</p>	<p>Continues current law and also requires child well-being assessments. See side-by-side on work-related provisions for more detail on assessments.</p> <p>Also provides funds to states to create an advisory panel to improve the states' policies and procedures for assisting TANF recipients with barriers to work.</p>	<p>Current law.</p> <p>In addition, the proposal provides funding for various administrative costs associated with complying new work requirements and enhancing states' administrative capabilities. This includes developing innovative training programs that cover, among other things, screening of recipients for serious barriers and referral of recipients with serious barriers to qualified specialists.</p>

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<p>Sanction Review & Compliance Procedures</p> <p><i>Also see Wellstone-Corzine (S. 2610), Murray (S. 2876), and Feingold (S. 2878) at the end of this document.</i></p>	No provision.	<p>No requirement to adopt particular procedures. However, states must describe in their plans any strategies they may be undertaking to address “services for struggling and noncompliant families, and for clients with special problems.”</p> <p>Requires states to impose sanctions if a family member fails to participate in the activities set forth in the “Family Self-Sufficiency Plan.” Specifically, the state shall reduce the grant pro rata for a partial failure or for a failure that lasts less than 1 month. If the failure is total and lasts for at least 2 consecutive months, a full-family sanction is required for at least one month and thereafter until the individual comes into compliance. The full-family sanction requirement does not apply if local government has an obligation to provide assistance under a</p>	<p>Yes. A state may not impose a sanction unless it has:</p> <ul style="list-style-type: none"> • attempted at least twice to notify the person of the impending sanction, the amount of the sanction, the length of time during which the sanction would be in effect, and the steps required to come into compliance or to show good cause for noncompliance; • afforded an opportunity to meet with a caseworker and explain the noncompliance; and • specifically considered (using screening tools developed in consultation with experts) whether various barriers to employment contributed to the noncompliance. 	<p>Yes. Requires review of IRP prior to imposition of sanction and requires state to make a good faith effort to consult with the family as part of the review.</p> <p>Also, requires HHS to support a random assignment study comparing the effects of full-family sanctions, partial sanctions, and other policies for increasing engagement in work activities.</p>	Does not address.	Requires HHS to promulgate best practice standards on appropriate procedures for imposing sanctions.	Current law.

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		<p>constitutional or statutory provision that was in place prior to 1966.</p> <p><i>(S. 2648 does not include this last exemption to the requirement that states impose full-family sanctions when local government has constitutional or statutory obligations to provide assistance.)</i></p> <p><i>(The Bush Administration's plan did not require full-family sanctions.)</i></p>					

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Other Child Welfare Provisions	Requires states to consider giving preference to kin when placing children outside the home. Permits for-profit child care institutions to receive foster care maintenance payments.	Extends and expands waiver authority under the federal foster care and adoption assistance programs. It eliminates the limit on the number of waivers that can be granted and prohibits HHS from denying a waiver on the grounds that another state is trying a similar approach. <i>(The Bush Administration's plan did not address child welfare waiver authority.)</i>	Current law.	Extends and expands waiver authority under the federal foster care and adoption assistance programs. It eliminates the limit on the number of waivers that can be granted to a state. The summary of the mark is unclear about whether the proposal would also prohibit HHS from denying a waiver because another state is trying a similar approach.	Does not address.	Current law.	Permits the use of Title IV-E funding to train "State-licensed or State-approved child welfare agencies providing services" to children receiving IV-E foster care or adoption assistance. Current law limits the use of such funds for training of public agencies, foster and adoptive parents, and state-licensed or state-approved child care facilities providing care to such children. Requires states to provide notice to families losing foster care or adoption assistance (or TANF) to be notified of whether they continue to be eligible for Medicaid and the different ways families may qualify for Medicaid and for the state children's health insurance program.

Wellstone-Corzine (S. 2610): Chance to Succeed Act of 2002

- Permits satisfactory participation (as defined by the state) in services to address barriers to count towards the participation rate for 3 months. The 3-month period may be extended by the state for an additional 3 months, if necessary, and for an additional period determined by the state, so long as the state periodically reassesses the appropriateness of the activities.
- Requires two-stage assessment process:
 - The first stage includes:
 - screening for employability, education capacity, and related circumstances;
 - screening, by a trained caseworker, for potential barriers to work and program compliance;
 - at the option of the individual, a child care assessment and guarantee of safe, affordable, appropriate child care; and
 - at the option of the individual, an assessment of the job preparation needed to find a job that pays at least 200% of federal poverty level.
 - The second stage includes:
 - at the option of the individual, comprehensive assessment by a qualified professional (participation in this assessment cannot be a program requirement);
 - development of recommendations (based on the comprehensive assessment), which are included in the IRP and which spell out the services the state will offer the individual and the individual's family; and
 - at the option of the individual, assessment of family members.
- Requires states to consult with experts who work with individuals facing different barriers, requires HHS to provide technical assistance, and provides funding for advisory panels to improve states policies and procedures for assisting TANF recipients with barriers to work.
- Establishes pre-sanction review and conciliation process, which requires states to:
 - provide notice, at least twice, of the reason for, amount of, and duration of the impending sanction and the steps necessary to come into compliance; and
 - afford the individual or family the opportunity to meet with personnel from outside the agency, under contract with the agency, to determine whether the sanction is appropriate and whether the individual or family needs additional assessment or services.
- Establishes sanction parameters that prohibit sanctions if the needed screening, assessment, or services to address barriers were not available, but permits sanctioning if an individual or family opts not to take full advantage of the assessment process and is otherwise not complying with the state's work requirements.
- Establishes a post-sanction process, which requires states to:
 - provide periodic notice, for at least 6 months, of the reason for the sanction and the steps the individual or family needs to take to come into compliance;
 - reinstate benefits when a person comes into compliance for a reasonable time; and
 - provide notice at least 10 days before the end of a time-limited sanction explaining how the benefits will be reinstated.
- Requires states, on a one-time basis, to make reasonable efforts to notify individuals or families who were sanctioned in the past 5 years, and who did not resume receiving assistance at a later date, of the assistance, services, and supports they may be eligible to receive.

Murray (S. 2876): Building Secure and Healthy Families Act of 2002

- Permits states to exempt kinship caregivers who are part of a family grant from federal work requirements and to exclude that family from the calculation of work participation rates, if the state assesses the needs of the family and provides or refers the family for appropriate services to meet those needs.
- Revises the federal time limit to apply only to parents, not kinship caregivers, even when the relative caregiver's needs are included in the family grant.
- Adds to the assessment provision by requiring assessment of "potential barriers, including domestic or sexual violence, mental or physical health, learning disability, substance abuse, English as a second language, child care needs, insufficient housing, or transportation."
- Amends the current family violence option by requiring that:
 - all states coordinate with domestic or sexual violence coalitions in the development of policies and procedures;
 - states train caseworkers about the nature of domestic or sexual violence, the policies and procedures for dealing with domestic or sexual violence, and how to screen for and identify domestic or sexual violence;
 - trained caseworkers identify survivors of domestic violence, refer them to services, and modify or waive program requirements as necessary;
 - states maintain the privacy and confidentiality of client information; and that
 - states provide notice of impending sanctions and pre-sanction review to ensure that individuals are not being sanctioned when domestic or sexual violence is a significant contributing factor to noncompliance.
- Authorizes \$11 million in FY 2003, and \$10 million annually through 2007, for efforts to identify and disseminate best practices for training, screening, and serving survivors of domestic or sexual violence.

- Creates a state option to count individuals receiving family violence services or waivers as being engaged in work.
- Provides that an individual caring for a child or other relative with a serious health condition or disability shall be deemed to be engaged in work.
- Includes as countable activities: caring for one's own child up to age 1 (or at state option age 3); caring for one's child or other relatives with a serious health condition or disability; and attending appointments, service plan meetings, or training regarding the care of one's child or other relative with a serious health condition or disability.
- Modifies the time limit hardship exemption to permit states to exceed the 20% cap in order to grant good cause exemptions from the time limit for families that need continued assistance due to domestic or sexual violence.
- Prohibits the imposition of full-family sanctions when an individual fails to comply with program requirements. Instead, the provision requires sanction of the non-compliant individual.

Feingold (S. 2878): Fair Treatment and Due Process Protection Act of 2002

- Requires a pre-sanction review process that provides the individual or family with notice explaining the reason for the sanction; describing the amount and duration of the sanction and the steps required to come into compliance; informing the individual or family that assistance is available to help them come into compliance; and explaining that the family may appeal the decision (including an explanation of the steps necessary to pursue the appeal).
- Provides the individual or family with an opportunity to meet with the person conducting the pre-sanction review, which review shall include consideration of the following:
 - whether barriers to compliance exist;
 - whether the noncompliance resulted from failure to receive or have access to services previously identified as necessary;
 - whether changes to the individual responsibility plan should be made in order for the individual to come into compliance;
 - whether the individual has good cause for noncompliance; and
 - whether the state's sanction policies have been properly applied.
- Requires a post-sanction process which includes:
 - notice of the reason for the sanction and the steps the individual or family must take to come into compliance; and
 - resuming the individual's or family's full assistance, services, and benefits once the individual complies for a reasonable period of time, or, at state discretion, at an earlier time period.
- Imposes penalties on states for failure to comply with these sanction procedures.