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Final 2006 Budget Bill Cuts Services to Abused and Neglected Children

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Updated February 17, 2006

On February 8, 2006, President Bush signed into law the 2006 federal budget bill (called “The Deficit Reduction Act of 2005,” or S. 1932). The bill narrowly passed the United States Senate and House.¹ The 2006 budget decreases federal funding for a range of services that help children who have been abused or neglected.

Among other things, the final 2006 budget bill:

- Eliminates federally funded foster care assistance for thousands of children who live in low-income homes with their grandparents or other relatives—an estimated cut of \$380 million over five years.
- Cuts federal support for critical foster care casework services by an estimated \$174 million over five years.
- Restricts access to Medicaid Targeted Case Management (TCM) services for children in foster care and others by \$760 million over five years.

The 2006 budget bill modestly increases child welfare funding in two areas. It:

- Adds \$40 million in mandatory funding for the Promoting Safe and Stable Families Program for 2006, although the discretionary spending under this program for 2006 is decreased by \$9.4 million.²
- Adds \$100 million in mandatory funding for new court improvement projects over the next five years.

These modest increases in no way offset the significant cuts, either in terms of actual dollar amounts or services provided. Thousands of children who have been abused and neglected will likely be hurt by the provisions in the final 2006 budget bill.

The Final 2006 Budget Bill Reduces Financial Support to Children Placed with Relatives

The final 2006 budget bill reduces federal funding under Title IV-E of the Social Security Act for both foster care maintenance payments and administrative and child placement funds, which support critical casework services for children in foster care. Both provisions are likely to have a significant effect on children living with relatives when their parents cannot care for them

When children cannot be cared for by their parents, placing them with relatives often leads to positive outcomes. Numerous studies have shown that there are significant benefits to placing a child who has been abused or neglected with grandparents or other relatives rather than with unrelated foster parents, whenever possible and appropriate. Children placed with relatives have greater placement stability and improved child outcomes than those placed in the homes of unrelated foster parents.³ In addition, children placed with relatives tend to have more frequent contact with birth parents and siblings.⁴ When appropriate safety checks are included, kinship care can be the most appropriate form of out-of-home care for children who must be removed from the custody of parents.⁵

As a result of the positive outcomes associated with relative placements, many state child welfare agencies in recent years have preferred to place children who have been abused and neglected with grandparents or other relatives. In fact, federal law requires states to consider giving relatives such preference as they develop their child welfare laws and policies. Placement with relatives also reflects a growing desire to respect family ties and the difficulty in recruiting foster parents, especially in urban, low-income neighborhoods. Relatives are now the fastest-growing source of permanent adoptive homes for foster children.⁶ As of 2003, 23 percent of U.S. foster children were in relative placements.⁷ In some states, a majority of foster children are now placed in relatives' homes.⁸

“Why would we want to do anything to discourage a family member from taking in a child who has been abused or neglected by his birth parent?”

- Rep. Heather Wilson (R-NM),
Washington Post, Nov. 3, 2005.

Children living with relative caregivers have unique needs. Although children often do better when placed with relative caregivers, these relatives are likely to need more assistance from the child welfare agency than non-relative foster care parents. Unlike unrelated foster parents who have planned for, trained and prepared to care for a child who has been traumatized, relative caregivers often receive little or no notice before the placement occurs and they may need additional assistance meeting the needs of the children in their care. According to the Urban Institute, children placed with relatives by the court are more than twice as likely as children living with non-kin foster parents to live in families with incomes below 200 percent of the federal poverty threshold.⁹ Other studies indicate that inadequate financial support can undermine the stability of kinship care.¹⁰

Some Children Living With Relatives will be Unable to Access Federal Foster Care Maintenance Payments

Title IV-E authorizes state child welfare agencies to provide assistance to low-income children in foster care to help cover the costs of providing food, clothing, shelter, child care, and other basic needs.¹¹ In order to qualify for such federal foster care maintenance payments, a child must meet the stringent income standards in place under the old Aid to Families with Dependent Children (AFDC) program, even though AFDC was replaced by the Temporary Assistance to Needy Families (TANF) program in 1996.¹²

The final 2006 budget bill sets aside a federal Court of Appeals decision, *Rosales v. Thompson*,¹³ which found that the U.S. Department of Health and Human Services (HHS) had interpreted

Title IV-E in such a way that it illegally denied foster care maintenance payments to certain low-income children who had been abused and neglected.¹⁴

In *Rosales*, a child was informally placed with his grandmother because of concern that he was being abused in his mother's home. Subsequently, the child welfare agency filed a petition to have the child *legally* removed from his mother's custody and the grandmother became the child's official foster parent. When the grandmother sought federal foster payments on her grandson's behalf, she was denied because the child had not been eligible for AFDC in his mother's home, even though he was eligible for AFDC in his grandmother's home. In reviewing this interpretation of federal law, the Ninth Circuit concluded that a child is eligible for federal foster care maintenance payments if, in addition to meeting the other eligibility requirements, he or she is eligible for AFDC at the time of the *legal removal*. Since the child in *Rosales* was eligible for AFDC in his grandmother's home, where he was living when *legally removed* from his mother's custody, the Court concluded that he was entitled to federal foster care maintenance payments. Following the decision in *Rosales*, thousands more children living with relatives qualify for federal foster care assistance.

The *Rosales* provision of the 2006 federal budget bill, would cut federal spending on foster care by \$380 million over five years and \$863 million over ten years, according to the Congressional Budget Office (CBO). The CBO projections are based on HHS estimates that the provision would reduce foster care assistance to 4,000 children each month. However, many states and advocates believe the HHS estimates significantly undercount the number of children that would be directly impacted by the provision. The County Welfare Directors Association of California recently estimated that there would be between 4,000 and 5,000 affected children in California alone,¹⁵ while the *Rosales* decision directly impacts eight other states: Alaska, Arizona, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

The impact of overturning *Rosales* is broader, however. The policy of supporting relatives who step in to care for children when their parents cannot is one state and federal policymakers and advocates have endorsed as "good for children." Overturning *Rosales* reverses this direction. Rather than letting other states utilize the analysis of this decision to support more children living with relatives rather than unrelated foster parents, the final 2006 budget bill cuts off the potential for that support. Additionally, because relative care is more common among children of color, these families will be especially hard hit by the changes in the final 2006 budget bill.

The Final 2006 Budget Bill Limits Funding for Casework, Jeopardizing Safe and Stable Placements for Children

The final 2006 budget bill also cuts \$174 million over five years and \$405 million over ten years in federal funding for critical casework services for children in foster care. These cuts are achieved by placing time restrictions on the use of Title IV-E administrative and child placement funds. Specifically the bill limits access to federal funds for casework for certain children placed with unlicensed relatives and certain children transitioning out of institutions, such as hospitals or detention centers.

Administrative and child placement funds pay for the casework that is the “glue” linking children and families to many important services—for example, allowing caseworkers: to meet with family members, foster parents and others to assess what needs to be done to achieve safety, permanency and well-being for a child; to support foster parents in their efforts to address the often complex needs of children in their care; to refer children to needed services; to advocate for children in their schools; to search for placements; and to prepare for and attend court hearings related to foster children.¹⁶

Under the final 2006 budget provisions, states may not claim federal administrative and child placement funds for children living in foster care with unlicensed relatives for more than 12 months or the average time it takes to license a family in the state, whichever is shorter. Although licensing of foster parents, related and unrelated, is important, the processes and standards may be different. Children are often placed temporarily with relatives while attempts at family reunification take place. Given the temporary nature of the placement, it often make little sense to go through the time and effort of a full licensing process, since these homes are generally assessed, even if they are not licensed, before placement to determine that the child will be safe. Additionally, because relatives typically have little or no notice before the placement, they may suddenly find themselves dealing with a traumatized child and not be able to complete the licensing process in the average time frame for licensure.

It is likely then that a number of children will be living in foster care with unlicensed relatives for more than 12 months or the average licensure time frame and federal support for casework to help find these children find a permanent home (either through reunification, adoption or legal guardianship) will not longer be available. The lack of federal support for these children is likely to make it more difficult to achieve the desired outcomes for children

Similarly, the final 2006 budget bill limits federal support for casework provided to children transitioning into foster care from a medical or psychiatric hospital, juvenile detention center, or other institutional setting. Ongoing casework is critical to help these children move out of such facilities into more family like foster care settings. Federal funding is now available for only one month prior to the transition. Limiting federal support for critical casework could jeopardize the placement stability and safety of foster children.

The Final 2006 Budget Bill Cuts Medicaid Funding to Help Secure Needed Services for Foster Children.

The final 2006 budget bill restricts access to Medicaid Targeted Case Management (TCM) services for foster children and others. The cuts are estimated to be \$760 million over five years and \$2.1 billion over ten years. While CBO does not estimate how much of these cuts would impact children in foster care, it is reasonable to assume the impact will be significant.

Child welfare agencies have utilized TCM services to help children involved with the child welfare system get critical services to address their disabilities and special needs. According to the Urban Institute, Medicaid TCM and related rehabilitative services accounted for \$1.1 billion in child welfare expenditures in 2002—11 percent of all federal child welfare expenditures that

year.¹⁷ Restricting access to these critical services may mean more abused and neglected children do not get the services they need to recover from their trauma.

The Bill Makes Two Modest Improvements to “Promoting Safe and Stable Families” Title IV-B Funding

The budget bill makes two improvements to child welfare funding. First, it increases mandatory funding for the Promoting Safe and Stable Families program (PSSF) by \$40 million in 2006. PSSF funds a range of services to prevent child maltreatment, to support families in crisis, to help safely reunify families when children must be removed from their parents and to promote adoption for children who cannot safely be returned to their birth parents. PSSF is funded with both mandatory and discretionary funds. Prior to the passage of the final 2006 budget bill, the PSSF program had available \$305 million in mandatory funds and \$200 million in discretionary funds per year. The final 2006 budget bill increases the level of mandatory funding in PSSF to \$345 million in 2006. While the final budget bill increased mandatory spending, some of that increase is offset by decreases to discretionary funds in the appropriations process. Through that process, Congress had previously reduced the appropriation of discretionary PSSF funds from \$98.5 million in 2005 to \$89.1 million in 2006, a decrease of \$9.4 million. The discretionary funds appropriated continue to be less than one-half of the \$200 million authorized by statute. PSSF must be reauthorized in 2006, so it is not clear what the mandatory and discretionary funding levels will be after this year.

Second, the budget bill increases the amount of PSSF funds available for the Court Improvement Projects, used to improve how courts handle child welfare cases.¹⁸ In addition, the budget bill will provide \$10 million per year for each of the two new grant programs for the next five years—totaling \$100 million over five years.

Conclusion

Together, the child welfare provisions in the final 2006 final budget bill will make significant cuts to child welfare services available to children who have been abused and neglected. The bill cuts Title IV-E by more than \$550 million over the next five years. In addition, it makes significant cuts to Medicaid TCM for children in foster care. The final 2006 budget bill also makes modest increases in the Promoting Safe and Stable Families program. While these increases are important and much needed, they do not begin to offset the other cuts—either in terms of total dollars or in ability to replace the specific services cut as a result of the 2006 final budget bill. For example, the funding increases to the Promoting Safe and Stable Families program generally cannot be used to cover services and supports lost in the Title IV-E cuts.

Even if the funds were able to be used in other areas, more funding is needed across the continuum of child welfare services—from prevention, early intervention, reunification, foster care, adoption and kinship care services. Forty percent of children officially found to be abused or neglected receive no services at all beyond the investigation itself.¹⁹ The cuts in the final 2006 budget increase the likelihood that even more abused and neglected children will fail to get the services they need.

¹ The budget bill was originally passed by the House on December 19, 2005 by a 212 to 206 vote and by the Senate on December 22, 2005 by a vote of 51 to 50 (requiring a tie-breaking vote by Vice-President Cheney). Because the House and Senate passed slightly different versions of the legislation, it returned to the House for another vote, and passed by only two votes, 216 to 214. The agreement, S. 1932, is also called the Deficit Reduction Act of 2005.

² This cut actually occurred in the appropriations bills rather than S. 1932, but it impacts the final 2006 budget.

³ Testa, M. "Kinship Care and Permanency." *Journal of Social Service Research*, 28(1), 25-43. 2002; Terling-Watt, T. "Permanency in Kinship Care: an Exploration of Disruption Rates and Factors Associated with Placement Disruption." *Children & Youth Services Review*, 23(2), 111-126. 2000; Webster, D., Barth, R.P., & Needell, B. "Placement Stability for Children in Out-of-Home Care: A Longitudinal Analysis." *Child Welfare*, 79(5), 614-632. 2000.

⁴ Chipungu, Sandra, Joyce Everett, Mary Jeanne Verdieck, and Hudith Jones. *Children Placed in Foster Care with Relatives: A Multi-State Study*. Washington, D.C.: Department of Health and Human Services, Administration on Children, Youth, and Families. 1998.

⁵ Garnier, P.C. and J. Poertner. "Using Administrative Data to Assess Child Safety in Out-of-Home Care." *Child Welfare*, 79(5), 597-613. 2000.

⁶ http://www.futureofchildren.org/usr_doc/ufoc1401_115.pdf

⁷ <http://www.acf.hhs.gov/programs/cb/publications/afcars/report10.htm>

⁸ Barbara Needell et al. *Report to the Legislature on the Kinship Guardianship Assistance Payment (Kin-Gap) Program* 2002, at 7. Child Welfare Research Center. Available online at <http://cssr.berkeley.edu/childwelfare/pdfs/KinGAPRpt.pdf>.

⁹ Jennifer Macomber et al. *Kinship Foster Care: Custody, Hardships and Services*. 2003. Available at Urban Institute: <http://www.urban.org/url.cfm?ID=310893>. In 2005, 200 percent of the poverty line was \$32,180 for a family of three.

¹⁰ Terling-Watt, T. Op cit.

¹¹ Specifically, IV-E maintenance payments "cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation." 42 U.S.C. § 675(4)(A).

¹² 42 U.S.C. 672(a)(4).

¹³ *Rosales v. Thompson*, 321 F.3d 835 (Ninth Circuit 2003). The decision is directly binding on nine states (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington), Guam and the Mariana Islands. Other states outside the Ninth Circuit were planning to expand their eligibility rules based on *Rosales*; New York and Pennsylvania have already initiated appeals.

¹⁴ 42 U.S.C. 672(a).

¹⁵ California State Association of Counties, County Welfare Directors Association of California and Child Support Directors Association. *Letter to California Congressional Delegation*. October 28, 2005.

¹⁶ 45 C.F.R. § 1356.60(c)(2).

¹⁷ Cynthia Andrews Scarcella, et al., *The Cost of Protecting Vulnerable Children IV: How Child Welfare Funding Fared During the Recession*, 2004, at 14. Available at Urban Institute: http://www.urban.org/UploadedPDF/411115_VulnerableChildrenIV.pdf. This is the most recent data available.

¹⁸ The current Court Improvement grants are funded by setting aside \$10 million of the PSSF mandatory funds and 3.3 percent of the discretionary funds. Without the two new grants, this results in just under \$13 million. The new grants will increase the amount of possible grant funding to just under \$33 million in 2006. However, the CBO indicates that some time will be necessary to "ramp up" the program, and the extent to which these funds are accessed will also depend on whether states make grant applications.

¹⁹ Department of Health and Human Services (DHHS) (US), Administration on Children, Youth, and Families (ACYF). *Child Maltreatment 2003*. Washington (DC): Government Printing Office; 2005. Available online at <https://www.acf.hhs.gov/programs/cb/pubs/cm03/index.htm>