

106TH CONGRESS  
1ST SESSION

# S. 1067

To promote the adoption of children with special needs.

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## IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, MAY 14), 1999

Mr. ROCKEFELLER (for himself, Mr. CHAFEE, Mr. DEWINE, Ms. COLLINS, Ms. LANDRIEU, Mr. LEVIN, Mr. MOYNIHAN, Mr. KERREY, Mr. DORGAN, Mr. CONRAD, Mr. INOUE, Mr. BREAUX, Mr. DURBIN, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To promote the adoption of children with special needs.

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 “Adoption Equality Act  
5       of 1999”.

6       **SEC. 2. PROMOTION OF ADOPTION OF CHILDREN WITH**  
7                               **SPECIAL NEEDS.**

8       (a) IN GENERAL.—Section 473(a) of the Social Secu-  
9       rity Act (42 U.S.C. 673(a)) is amended by striking para-  
10      graph (2) and inserting the following:

1 “(2)(A) For purposes of paragraph (1)(B)(ii), a child  
2 meets the requirements of this paragraph if such child—

3 “(i)(I) at the time of termination of parental  
4 rights was in the care of a public or licensed private  
5 child placement agency or Indian tribal organization  
6 pursuant to a voluntary placement agreement, relin-  
7 quishment, or involuntary removal of the child from  
8 the home, and the State has determined, pursuant  
9 to criteria established by the State (which may, but  
10 need not, include a judicial determination), that con-  
11 tinuation in the home would be contrary to the safe-  
12 ty or welfare of such child;

13 “(II) meets all medical or disability require-  
14 ments of title XVI with respect to eligibility for sup-  
15 plemental security income benefits; or

16 “(III) was residing in a foster family home or  
17 child care institution with the child’s minor parent  
18 (pursuant to a voluntary placement agreement, relin-  
19 quishment, or involuntary removal of the child from  
20 the home, and the State has determined, pursuant  
21 to criteria established by the State (which may, but  
22 need not, include judicial determination), that con-  
23 tinuation in the home would be contrary to the safe-  
24 ty or welfare of such child); and

1           “(ii) has been determined by the State, pursu-  
2           ant to subsection (c), to be a child with special  
3           needs, which needs shall be considered by the State,  
4           together with the circumstances of the adopting par-  
5           ents, in determining the amount of any payments to  
6           be made to the adopting parents.

7           “(B) Notwithstanding any other provision of law, and  
8           except as provided in paragraph (7), a child who is not  
9           a citizen or resident of the United States and who meets  
10          the requirements of subparagraph (A) shall be treated as  
11          meeting the requirements of this paragraph for purposes  
12          of paragraph (1)(B)(ii).

13          “(C) A child who meets the requirements of subpara-  
14          graph (A), who was determined eligible for adoption as-  
15          sistance payments under this part with respect to a prior  
16          adoption (or who would have been determined eligible for  
17          such payments had the Adoption and Safe Families Act  
18          of 1997 been in effect at the time that such determination  
19          would have been made), and who is available for adoption  
20          because the prior adoption has been dissolved and the pa-  
21          rental rights of the adoptive parents have been terminated  
22          or because the child’s adoptive parents have died, shall be  
23          treated as meeting the requirements of this paragraph for  
24          purposes of paragraph (1)(B)(ii).”.

1 (b) EXCEPTION.—Section 473(a) of the Social Secu-  
2 rity Act (42 U.S.C. 673(a)) is amended by adding at the  
3 end the following:

4 “(7)(A) Notwithstanding any other provision of this  
5 subsection, no payment may be made to parents with re-  
6 spect to any child that—

7 “(i) would be considered a child with special  
8 needs under subsection (c);

9 “(ii) is not a citizen or resident of the United  
10 States; and

11 “(iii) was adopted outside of the United States  
12 or was brought into the United States for the pur-  
13 pose of being adopted.

14 “(B) Subparagraph (A) shall not be construed as pro-  
15 hibiting payments under this part for a child described  
16 in subparagraph (A) that is placed in foster care subse-  
17 quent to the failure, as determined by the State, of the  
18 initial adoption of such child by the parents described in  
19 such subparagraph.”.

20 (c) REQUIREMENT FOR USE OF STATE SAVINGS.—  
21 Section 473(a) of the Social Security Act (42 U.S.C.  
22 673(a)), as amended by subsection (b), is amended by  
23 adding at the end the following:

24 “(8) A State shall spend an amount equal to the  
25 amount of savings (if any) in State expenditures under

1 this part resulting from the application of paragraph (2)  
2 on and after the effective date of the amendment to such  
3 paragraph made by section 2(a) of the Adoption Equality  
4 Act of 1999 to provide to children or families any service  
5 (including post-adoption services) that may be provided  
6 under this part or part B.”.

7 (d) DETERMINATION OF A CHILD WITH SPECIAL  
8 NEEDS.—Section 473(e) of the Social Security Act (42  
9 U.S.C. 673(e)) is amended to read as follows:

10 “(c) For purposes of this section, a child shall not  
11 be considered a child with special needs unless—

12 “(1)(A) the State has determined, pursuant to  
13 a criteria established by the State (which may or  
14 may not include a judicial determination), that the  
15 child cannot or should not be returned to the home  
16 of his parents; or

17 “(B) the child meets all medical or disability re-  
18 quirements of title XVI with respect to eligibility for  
19 supplemental security income benefits; and

20 “(2) the State has determined—

21 “(A) that there exists with respect to the  
22 child a specific factor or condition (such as eth-  
23 nic background, age, or membership in a minor-  
24 ity or sibling group, or the presence of factors  
25 such as medical conditions or physical, mental,

1 or emotional handicaps) because of which it is  
2 reasonable to conclude that the child cannot be  
3 placed with adoptive parents without providing  
4 adoption assistance under this section and med-  
5 ical assistance under title XIX; and

6 “(B) that except where it would be against  
7 the best interests of the child because of such  
8 factors as the existence of significant emotional  
9 ties with prospective adoptive parents while in  
10 the care of such parents as a foster child, a rea-  
11 sonable, but unsuccessful, effort has been made  
12 to place the child with appropriate adoptive  
13 parents without providing adoption assistance  
14 under this section or medical assistance under  
15 title XIX.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on October 1, 1999.

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