

109TH CONGRESS
1ST SESSION

S. 380

To amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2005

Ms. COLLINS (for herself, Mr. PRYOR, Mr. DEWINE, Mr. BINGAMAN, Mr. SMITH, Mr. LIEBERMAN, and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

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 “Keeping Families To-
5 gether Act”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to assist States in elimi-
3 nating the practice of parents giving custody of their seri-
4 ously emotionally disturbed children to State agencies for
5 the purpose of securing mental health care for those chil-
6 dren.

7 **SEC. 3. FAMILY SUPPORT GRANTS.**

8 Title V of the Public Health Service Act (42 U.S.C.
9 290aa et seq.) is amended—

10 (1) by redesignating the second part G (relating
11 to services provided through religious organizations)
12 as part J;

13 (2) by redesignating sections 581 through 584
14 of part J (as so redesignated) as sections 596
15 through 596C, respectively; and

16 (3) by adding at the end the following:

17 **“PART K—FAMILY SUPPORT**

18 **“SEC. 597. FAMILY SUPPORT GRANTS.**

19 “(a) IN GENERAL.—The Secretary, acting through
20 the Administrator and in consultation with the task force
21 established under section 597A, is authorized to award
22 competitive grants to States to enable such States to es-
23 tablish systems of care to treat and provide services to
24 all eligible children and youth. The Secretary shall ensure
25 that the amount awarded to each grantee is sufficient to

1 enable the grantee to accomplish the purposes of the
2 grant.

3 “(b) ELIGIBILITY.—To be eligible for a grant under
4 subsection (a) a State shall—

5 “(1) have laws or policies in effect to ensure
6 that children receive appropriate mental health serv-
7 ices so that parents do not have to relinquish legal
8 custody of such children;

9 “(2) submit to the Secretary an application
10 from the Governor in accordance with subsection (c);

11 “(3) provide assurances that the State will pro-
12 vide matching funds in accordance with subsection
13 (e); and

14 “(4) meet such other requirements as the Sec-
15 retary determines appropriate.

16 “(c) APPLICATION.—

17 “(1) IN GENERAL.—An application submitted
18 for a grant under this section shall include—

19 “(A) a brief description of the system of
20 care that the State intends to establish with
21 amounts received under the grant to ensure
22 that eligible children and youth and their fami-
23 lies receive the appropriate individualized men-
24 tal health treatment and family support services
25 necessary to keep such families together;

1 “(B) a description of the process by which
2 the State will formulate a State plan that meets
3 the requirements of paragraph (2), including
4 participants, timelines, and any previous or on-
5 going efforts related to the establishment of a
6 statewide system;

7 “(C) an estimate of the number of eligible
8 children and youth in the State, and the num-
9 ber of eligible children and youth who will be
10 served under the grant;

11 “(D) a description of existing systems of
12 care in the State (including systems funded
13 under section 561) and existing interagency col-
14 laboration that demonstrates a foundation on
15 which the State can build a system of care
16 under a grant under this section;

17 “(E) a brief description of the manner in
18 which services for all eligible children and youth
19 are expected to be funded under the system es-
20 tablished by the State under the grant;

21 “(F) a description of children’s mental
22 health services capacity in the State and the
23 steps that will be taken, if necessary, to ensure
24 that adequate capacity exists to implement the
25 proposed system of care;

1 “(G) a description of the source of the
2 State matching funds; and

3 “(H) other information as required by the
4 Secretary.

5 “(2) STATE PLAN.—Prior to receiving funds
6 under the grant for the second grant year, a State
7 shall submit to the Secretary and the Secretary shall
8 approve, a State plan that—

9 “(A) is developed through a collaborative
10 process that includes the required State part-
11 ners as represented by senior officials with pol-
12 icymaking authority, the required private part-
13 ners, and other entities that the governor of the
14 State determines appropriate;

15 “(B) contains a description and assess-
16 ment of the effectiveness of the laws or policies
17 that the State has in effect to ensure that chil-
18 dren receive appropriate mental health services
19 and that parents do not have to relinquish legal
20 custody of such children in order to obtain such
21 services;

22 “(C) contains a description of the services
23 to be provided to eligible children and youth
24 and the sources of such services, including the

1 extent to which the State will build upon exist-
2 ing systems of care within the State;

3 “(D) contains a description of the proce-
4 dures to be implemented for the early identi-
5 fication, assessment, and referral, by health
6 care providers, mental health agencies, other
7 child-serving entities, child welfare, corrections,
8 and juvenile justice systems, of all eligible chil-
9 dren and youth for appropriate care and for co-
10 ordinating services among child welfare, juve-
11 nile justice, and child mental health agencies,
12 including co-location of services as appropriate;

13 “(E) describes any legislative changes that
14 are required to implement the State plan;

15 “(F) describes how the State screens chil-
16 dren and youth entering the juvenile justice and
17 child welfare systems for mental health prob-
18 lems, including the State’s mental health
19 screening procedures as part of the early and
20 periodic screening, diagnostic, and treatment
21 services described in section 1905(r) of the So-
22 cial Security Act that are provided under the
23 medicaid programs;

1 “(G) contains a description of the plan of
2 the State for ensuring that there will be ade-
3 quate capacity to serve all eligible children;

4 “(H) contains a description of the plan of
5 the State for financing the system of care devel-
6 oped under the grant, including—

7 “(i) the manner in which the State
8 will use—

9 “(I) contributions from State
10 agencies;

11 “(II) State eligibility options or
12 waivers authorized with respect to the
13 State medicaid program such as those
14 authorized under sections 1902(e)(3)
15 and 1915(e) of the Social Security
16 Act;

17 “(III) the State Children’s
18 Health Insurance Program under title
19 XXI of the Social Security Act (in-
20 cluding an assurance that grant funds
21 will not be used as a State match
22 under the medicaid or SCHIP pro-
23 grams); and

24 “(IV) other public health insur-
25 ance mechanisms; and

1 “(ii) how Federal grant dollars will be
2 used to enable the State to achieve a sus-
3 tainable system of care to serve all eligible
4 children and youth;

5 “(I) contains a description of how the
6 State will provide outreach services to families,
7 provide for public educational activities, and in-
8 volve families; and

9 “(J) establishes a method for tracking and
10 reporting the number of children and youth en-
11 tering child welfare and juvenile justice systems
12 with significant mental health problems.

13 “(3) PRIORITY.—In awarding grants under this
14 section, the Secretary shall give priority to States—

15 “(A) that have a history of developing and
16 supporting local or statewide systems care and
17 of successful interagency collaboration;

18 “(B) that have taken steps to broaden ac-
19 cess to community-based services for children
20 with serious emotional disturbances;

21 “(C) that have provided reasonable esti-
22 mates of the numbers of eligible children and
23 youth;

24 “(D) that have sufficient mental health
25 service capacity or specific plans for sufficiently

1 increasing mental health services capacity to
2 successfully implement the proposed system of
3 care;

4 “(E) in which the governor’s office will
5 play a leading role in the formulation of the
6 State plan required under paragraph (2); and

7 “(F) that will involve State juvenile and
8 family court judges in the planning and over-
9 sight of the system of care.

10 “(d) USE OF FUNDS.—A State shall use amounts re-
11 ceived under a grant under this section to—

12 “(1) establish State- and local-level infrastruc-
13 ture to allow for interagency cooperation and cross
14 system financing to—

15 “(A) support the purchase and delivery of
16 a comprehensive array of community-based
17 mental health and family support services to all
18 eligible children and youth and their families;

19 “(B) decrease categorical funding struc-
20 tures and eliminate inter-agency fragmentation
21 of services; and

22 “(C) increase the capacity of agencies to
23 share public resources and improve parental ac-
24 cess to services for children with mental health

1 needs to eliminate the need to relinquish cus-
2 tody in order to receive treatment;

3 “(2) expand public health insurance programs
4 to cover a comprehensive array of community-based
5 mental health and family support services for eligible
6 children and youth and their families that will be
7 sustainable after the grant has expired;

8 “(3) deliver mental health care and family sup-
9 port services to eligible children and youth and their
10 families as part of a transition to a sustainable sys-
11 tem of care for such children and youth;

12 “(4) provide outreach and public education con-
13 cerning programs and activities funded under this
14 section;

15 “(5) provide training and professional develop-
16 ment for personnel who work with eligible children
17 and youth as required to successfully implement the
18 State plan; and

19 “(6) carry out other administrative activities re-
20 lated to the programs and activities carried out
21 under the grant, including the development and
22 maintenance of data systems.

23 “(e) MATCHING FUNDS.—

24 “(1) IN GENERAL.—A State that receives a
25 grant under this section shall, with respect to the

1 costs to be incurred by the State in carrying out the
2 purpose for which the grant is awarded, make avail-
3 able non-Federal contributions toward such costs in
4 an amount that—

5 “(A) for the third fiscal year for which the
6 entity receives payments from a grant under
7 such subsection, is not less than \$1 for each \$2
8 of Federal funds provided in the grant;

9 “(B) for the fourth such fiscal year, is not
10 less than \$1 for each \$1 of Federal funds pro-
11 vided in the grant; and

12 “(C) for the fifth and sixth such fiscal
13 years, is not less than \$2 for each \$1 of Fed-
14 eral funds provided in the grant.

15 “(2) DETERMINATION OF AMOUNT CONTRIB-
16 UTED.—Non-Federal contributions required in para-
17 graph (1) may be in cash or in kind, fairly evalu-
18 ated, including plant, equipment, or services.
19 Amounts provided by the Federal Government, or
20 services assisted or subsidized to any significant ex-
21 tent by the Federal Government, may not be in-
22 cluded in determining the amount of such non-Fed-
23 eral contributions.

24 “(3) ACCOUNTING REQUIRED.—With respect to
25 a State that complies with the requirement of para-

1 graph (2) through the provision of in-kind contribu-
2 tions, such State shall provide the Secretary with an
3 accounting that describes the value of such in-kind
4 contributions.

5 “(f) LIMITATION ON USE FOR ADMINISTRATIVE
6 COSTS.—Not more than 5 percent of the amount that a
7 State receives under a grant under this section shall be
8 used for administrative costs.

9 “(g) PAYMENTS.—Grants under this section shall be
10 payable over a 6-year period.

11 “(h) REPORTING REQUIREMENTS.—

12 “(1) IN GENERAL.—Secretary, acting through
13 the Administrator and in consultation with the task
14 force established under section 597A, shall require
15 States to report information that is appropriate to
16 permit an assessment to be made of the success of
17 States in the implementation of programs under this
18 section. Such information shall, at a minimum, in-
19 clude—

20 “(A) the number of eligible children and
21 youth in foster care;

22 “(B) the number of eligible children and
23 youth in residential treatment centers;

1 “(C) appropriate information concerning
2 the participation and academic progress of eligi-
3 ble children and youth in school;

4 “(D) measures of the contacts of eligible
5 children and youth with juvenile justice sys-
6 tems;

7 “(E) measures of the clinical improvement
8 of eligible children and youth; and

9 “(F) information concerning the level of
10 satisfaction of eligible children and youth and
11 their families with services received.

12 “(2) ANNUAL REPORT BY STATES.—Beginning
13 with the second fiscal year in which a State receives
14 funding under a grant under this section, the State
15 shall annually report to the Secretary on the success
16 of the programs and activities carried out by the
17 State under the grant. Such reports shall include the
18 information specified in paragraph (1) and other in-
19 formation required by the Secretary.

20 “(3) REPORTS BY THE SECRETARY.—

21 “(A) IN GENERAL.—Not later than 3 years
22 after the date of enactment of this part, the
23 Secretary shall submit to Congress a report on
24 the success of States in using grants under this
25 section to eliminate children and youth custody

1 relinquishment solely to obtain mental health
2 care. Such report shall include recommenda-
3 tions to strengthen the program under this sec-
4 tion.

5 “(B) FINAL REPORT.—Not later than 6
6 years after the date of enactment of this part,
7 the Secretary shall submit to Congress a final
8 report on the success of States in using grants
9 under this section to eliminate children and
10 youth custody relinquishment solely to obtain
11 mental health care.

12 “(i) TECHNICAL ASSISTANCE.—The Secretary, in
13 consultation with the task force established under section
14 597A, may provide technical assistance to States in car-
15 rying out programs and activities under this section. The
16 Secretary shall use not more than 20 percent of the
17 amount appropriate for each fiscal year, not to exceed
18 \$5,000,000 in any such fiscal year, to carry out this sub-
19 section and shall coordinate technical assistance under
20 this section with other technical assistance programs as
21 appropriate.

22 “(j) DEFINITIONS.—In this section:

23 “(1) ELIGIBLE CHILDREN AND YOUTH.—The
24 term ‘eligible children and youth’ means children
25 and youth under the age of 21 years who are in the

1 custody of the State for the purpose of receiving
2 mental health services or at-risk of entering into the
3 custody of the State for the purpose of receiving
4 mental health services.

5 “(2) FAMILY SUPPORT SERVICES.—The term
6 ‘family support services’ means individualized serv-
7 ices that are designed with input from the family
8 and provided to eligible children and youth and their
9 families to promote the mental health of an eligible
10 child or youth, to strengthen the ability of family
11 members to care for an eligible child or youth, or to
12 enable an eligible child or youth to take advantage
13 of other treatment and family support services.

14 “(3) REQUIRED PRIVATE PARTNERS.—The
15 term ‘required private partners’ includes—

16 “(A) representatives of families of seriously
17 emotionally disturbed children;

18 “(B) representatives of mental health care
19 providers;

20 “(C) representatives of private health in-
21 surers; and

22 “(D) representatives of hospitals and resi-
23 dential care facilities.

1 “(4) REQUIRED STATE PARTNERS.—The term
2 ‘required State partners’ with respect to a State in-
3 cludes—

4 “(A) the State agency responsible for chil-
5 dren’s mental health;

6 “(B) the State child welfare agency;

7 “(C) the State juvenile justice agency;

8 “(D) the State Medicaid agency;

9 “(E) the State education agency;

10 “(F) the State substance abuse agency;

11 “(G) the State bureau of insurance; and

12 “(H) the office of the Governor of the
13 State.

14 “(5) STATE.—The term ‘State’ includes, in ad-
15 dition to the several States, the District of Colum-
16 bia, the Commonwealth of Puerto Rico, the Com-
17 monwealth of the Northern Mariana Islands, the
18 Virgin Islands, Guam, American Samoa, the Trust
19 Territory of the Pacific Islands, and Indian tribes.

20 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this section,
22 \$4,500,000 for fiscal year 2006, \$6,500,000 for fiscal year
23 2007, and \$11,000,000 for each of fiscal years 2008
24 through 2010.

1 **“SEC. 597A. TASK FORCE.**

2 “(a) ESTABLISHMENT.—The Administrator, in con-
3 junction with the Director of the Office of Juvenile Justice
4 and Delinquency Prevention, the Administrator of the Ad-
5 ministration for Children and Families, the Administrator
6 of the Centers for Medicare & Medicaid Services, and the
7 Assistant Secretary of Education for Special Education,
8 shall establish and staff a task force to examine problems
9 of mental health in the child welfare and juvenile justice
10 systems and issues with respect to access by children and
11 youth to mental health services, and the role of their agen-
12 cies in promoting access by children and youth to mental
13 health services.

14 “(b) DUTIES.—The task force established under sub-
15 section (a) shall—

16 “(1) work with mental health and child advo-
17 cates, representatives of families of eligible children
18 and youth, and representatives of State systems of
19 care to make recommendations to Congress con-
20 cerning strategies to improve the delivery of mental
21 health services, including prevention services, to chil-
22 dren and youth with serious emotional disturbances,
23 including those who are at risk of dropping out of
24 school or at risk of coming in contact with child wel-
25 fare and juvenile justice systems;

1 “(2) work with mental health and child advo-
2 cates, representatives of families of eligible children
3 and youth, and representatives of State systems of
4 care to develop improved reporting requirements for
5 States concerning the number of children and youth
6 entering child welfare and juvenile justice systems
7 solely to access mental health services;

8 “(3) in consultation with States and appro-
9 priate stakeholders, create standard definitions for
10 the categories of data to be collected on such chil-
11 dren and youth;

12 “(4) foster interagency cooperation to eliminate
13 the practice of custody relinquishment;

14 “(5) provide advice to the Administrator in im-
15 plementation of the family support grant programs
16 under section 597;

17 “(6) coordinate and deliver technical assistance
18 to States and State agencies to help implement pro-
19 grams under such grant program;

20 “(7) make recommendations to break down bar-
21 riers to coordination in existing Federal programs
22 and to allow for more effective integration across
23 agencies and programs; and

24 “(8) provide a biannual report to Congress on
25 its recommendations and its progress in carrying out

1 its duties, ending the practice of parents relin-
 2 quishing legal custody of their children with serious
 3 emotional disturbances in order to obtain mental
 4 health services, and improving the delivery of mental
 5 health services to children with serious emotional
 6 disturbances.

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 8 are authorized to be appropriated to carry out this section,
 9 \$1,000,000 for each of fiscal years 2006 through 2010.
 10 Of the amount appropriate for each fiscal year under this
 11 subsection, 60 percent of such amount shall be made avail-
 12 able to the Secretary, 20 percent of such amount shall
 13 be made available to the Attorney General, and 20 percent
 14 of such amount shall be made available to the Secretary
 15 of Education.”.

16 **SEC. 4. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**
 17 **PITAL SERVICES FOR INDIVIDUALS UNDER**
 18 **AGE 21 IN HOME OR COMMUNITY-BASED**
 19 **SERVICES WAIVERS.**

20 (a) IN GENERAL.—Section 1915(c) of the Social Se-
 21 curity Act (42 U.S.C. 1396n(c)) is amended—

22 (1) in paragraph (1)—

23 (A) in the first sentence, by inserting “, or
 24 would require inpatient psychiatric hospital
 25 services for individuals under age 21,” after

1 “intermediate care facility for the mentally re-
2 tarded”; and

3 (B) in the second sentence, by inserting “,
4 or would require inpatient psychiatric hospital
5 services for individuals under age 21” before
6 the period;

7 (2) in paragraph (2)(B), by striking “or serv-
8 ices in an intermediate care facility for the mentally
9 retarded” each place it appears and inserting “serv-
10 ices in an intermediate care facility for the mentally
11 retarded, or inpatient psychiatric hospital services
12 for individuals under age 21”;

13 (3) in paragraph (2)(C)—

14 (A) by inserting “, or who are determined
15 to be likely to require inpatient psychiatric hos-
16 pital services for individuals under age 21,”
17 after “, or intermediate care facility for the
18 mentally retarded”; and

19 (B) by striking “or services in an inter-
20 mediate care facility for the mentally retarded”
21 and inserting “services in an intermediate care
22 facility for the mentally retarded, or inpatient
23 psychiatric hospital services for individuals
24 under age 21”; and

25 (4) in paragraph (7)(A)—

1 (A) by inserting “or would require inpa-
2 tient psychiatric hospital services for individuals
3 under age 21,” after “intermediate care facility
4 for the mentally retarded,”; and

5 (B) by inserting “or who would require in-
6 patient psychiatric hospital services for individ-
7 uals under age 21” before the period.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 subsection (a) apply with respect to medical assistance
10 provided on or after January 1, 2006.

○