

110TH CONGRESS  
1ST SESSION

# H. R. 4880

To amend the McKinney-Vento Homeless Assistance Act to provide for the implementation of protection and services for children and youths in out of home care, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2007

Mr. DAVIS of Illinois introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the McKinney-Vento Homeless Assistance Act to provide for the implementation of protection and services for children and youths in out of home care, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. IMPLEMENTATION OF PROTECTION AND SERV-**  
2 **ICES FOR CHILDREN AND YOUTHS IN OUT OF**  
3 **HOME CARE.**

4 (a) IN GENERAL.—The McKinney-Vento Homeless  
5 Assistance Act (42 U.S.C. 11421 et seq.) is amended by  
6 adding at the end the following new subtitle:

7 **“Subtitle C—Implementation of**  
8 **Protection and Services for**  
9 **Children and Youths in Out of**  
10 **Home Care**

11 **“SEC. 731. STATEMENTS OF POLICY.**

12 “Congress declares the following:

13 “(1) Children and youths in out of home care  
14 face daunting barriers to educational success very  
15 similar to those faced by children experiencing home-  
16 lessness. Extension of the protections and services of  
17 this subtitle to children and youths in out of home  
18 care, therefore, is crucial, to their educational suc-  
19 cess while ensuring that existing State and local  
20 educational agency programs serving homeless chil-  
21 dren and youths are protected and are provided with  
22 adequate support.

23 “(2) Efforts to improve educational outcomes  
24 for children and youths in out of home care must be  
25 a joint effort of child welfare agencies responsible  
26 for the welfare of such children and youths and the

1 State and local educational agencies pursuant to sec-  
2 tion 732 to provide educational services to such chil-  
3 dren and youths.

4 **“SEC. 732. IMPLEMENTATION OF PROTECTION AND SERV-**  
5 **ICES FOR CHILDREN AND YOUTHS IN OUT OF**  
6 **HOME CARE.**

7 “(a) IN GENERAL.—Not later than two years after  
8 the date of the enactment of this subtitle or the date on  
9 which the amount appropriated under section 726 equals  
10 or exceeds \$90,000,000, whichever comes first, each State  
11 through the State educational agency and each local edu-  
12 cational agency in the State, in collaboration with the  
13 State and local child welfare agencies in the State, shall  
14 provide children and youths in out of home care with the  
15 following:

16 “(1) The opportunity to remain in the school of  
17 origin, in accordance with subparagraphs (A) and  
18 (B) of section 722(g)(3), subject to subsection (b) of  
19 this section.

20 “(2) Immediate enrollment in the school chosen  
21 pursuant to section 722(g)(3)(C).

22 “(3) Maintenance and timely transfer of  
23 records pursuant to section 722(g)(3)(D).

24 “(4) Access to the dispute resolution process  
25 pursuant to section 722(g)(3)(E).

1           “(5) The assurance that they will not be seg-  
2           regated in a separate or stigmatized school or sepa-  
3           rate program within a school based on the status of  
4           their being children and youths in out of home care,  
5           pursuant to subsections (e)(3) and (g)(1)(J)(i) of  
6           section 722.

7           “(6) Equal access to comparable services as set  
8           forth in section 722(g)(4), subject to subsection (b)  
9           of this section.

10           “(7) Equal access to State-funded and local  
11           educational agency-funded preschool programs, ap-  
12           propriate secondary education and support services,  
13           before- and after-school programs for which they are  
14           eligible, including extracurricular activities, pursuant  
15           to section 722(g)(1)(F).

16           “(8) Opportunities to meet the same chal-  
17           lenging State student academic achievement stand-  
18           ards that all students are expected to meet pursuant  
19           to section 722(g)(1)(A).

20           “(9) Coordination of services with local child  
21           welfare and social service agencies and with local  
22           educational agencies on inter-district issues pursuant  
23           to section 722(g)(5).

24           “(b) TRANSPORTATION.—A State under this subtitle  
25           shall not be required to ensure that transportation is pro-

1 vided to the school of origin for a child or youth in out  
2 of home care unless such transportation is otherwise re-  
3 quired by law, the responsible child welfare agency or  
4 other entity agrees to reimburse the cost of providing such  
5 transportation, or transportation is required under section  
6 733.

7 “(c) IMPLEMENTATION OF PLAN.—Not later than  
8 one year after the date of the enactment of this subtitle,  
9 each State educational agency, in cooperation with the  
10 State child welfare agency in the State, shall submit to  
11 the Secretary a plan for the implementation of the edu-  
12 cational rights of children and youths in out of home care.  
13 Such plan shall include the following:

14 “(1) A description of how the State and the  
15 local child welfare agencies within the State will co-  
16 ordinate and collaborate with the State educational  
17 agency, the Coordinator for Education of Homeless  
18 Children and Youths established under section  
19 722(d)(3), and the local educational agencies in the  
20 State, including liaisons designated under section  
21 722(g)(1)(J)(ii), to ensure the protections and serv-  
22 ices provided under this subtitle will be promptly  
23 and effectively delivered to children and youths in  
24 out of home care, taking into account the need to

1 continue serving other children and youths eligible  
2 for protections and services under this subtitle.

3 “(2) A description of the policies and proce-  
4 dures which are or will be implemented regarding  
5 confidentiality, information-sharing, and educational  
6 decision-making for such children and youths.

7 “(3) A description of the policies and proce-  
8 dures which are or will be implemented regarding  
9 notice, dispute resolution procedures, maintenance of  
10 school records, and health records.

11 “(4) A description of specific procedures for  
12 school enrollment and withdrawal of children and  
13 youths in out of home care, including a description  
14 of who within the child welfare agency will work with  
15 the local educational agency to ensure immediate en-  
16 rollment of children and youths in out of home care  
17 and to assist with the smooth transition from school  
18 to school.

19 “(5) A description of the numbers and needs of  
20 children and youths in out of home care who will be  
21 eligible for the protections and services under sub-  
22 section (a), including, to the extent available, data  
23 on the numbers of school-age and preschool-age chil-  
24 dren and youths in out of home care in the State by  
25 local educational agencies, and data on the extent of

1 school mobility of children and youths in out of  
2 home care in the State.

3 “(6) A description of existing barriers to enroll-  
4 ment, attendance, retention, and educational success  
5 in school for children and youths in out of home  
6 care.

7 “(7) A description of efforts in the State to re-  
8 cruit foster families and provide placement options  
9 that maintain children and youths in their schools of  
10 origin.

11 “(8) Consistent with subsection (d) and section  
12 722(f)(3), data and information regarding children  
13 and youths in out of home care who are eligible for  
14 and are receiving protections and services under sub-  
15 section (a).

16 “(9) A description of the policies and proce-  
17 dures to be coordinated with the public child welfare  
18 agency that will assist unaccompanied youths who  
19 are in the custody of such public child welfare agen-  
20 cy to maintain school enrollment and attendance  
21 through stable housing.

22 “(10) Pursuant to subsection (b), a description  
23 of how required transportation services will be pro-  
24 vided and coordinated.

1       “(d) ADDITIONAL SECRETARIAL RESPONSIBIL-  
2 ITIES.—

3               “(1) INFORMATION.—

4                       “(A) IN GENERAL.—From funds appro-  
5 priated under section 726, the Secretary, in co-  
6 ordination with the Secretary of Health and  
7 Human Services, shall, directly or through  
8 grants, contracts, or cooperative agreements,  
9 periodically collect and disseminate data and in-  
10 formation regarding—

11                               “(i) the number and location of chil-  
12 dren and youths in out of home care;

13                               “(ii) the education and related serv-  
14 ices such children and youths receive;

15                               “(iii) the extent to which the edu-  
16 cational needs of children and youths in  
17 out of home care are being met; and

18                               “(iv) such other data and information  
19 as the Secretary determines necessary and  
20 relevant to carry out this subtitle.

21                       “(B) COORDINATION.—The Secretary shall  
22 coordinate such collection and dissemination  
23 with other agencies and entities that receive as-  
24 sistance and administer programs under this  
25 subtitle. The Secretary shall also coordinate the



1 collection of such data with the data collection  
2 required under section 724(h).

3 “(2) REPORT.—Not later than four years after  
4 the date of the enactment of this subtitle, the Sec-  
5 retary shall submit to the President and the Com-  
6 mittee on Education and Labor of the House of  
7 Representatives and the Committee on Health, Edu-  
8 cation, Labor, and Pensions of the Senate a report  
9 on the status of education of children and youths in  
10 out of home care, including information on the ac-  
11 tions of the Secretary and the effectiveness of the  
12 programs supported under this subtitle.

13 “(e) RULES OF CONSTRUCTION.—

14 “(1) NO SHIFTING RESPONSIBILITIES.—Noth-  
15 ing in this subtitle is intended to shift responsibil-  
16 ities to State or local educational agencies for duties  
17 and activities related to meeting the educational  
18 needs of children and youths in out of home care  
19 that the State child welfare agency has specifically  
20 assumed in its State plan submitted pursuant to  
21 parts B or E of title IV of the Social Security Act  
22 (42 U.S.C. 621 et seq. and 670 et seq.).

23 “(2) NO PRECLUSION OF EARLY IMPLEMENTA-  
24 TION.—Nothing in this section shall preclude a State  
25 from extending the protections under this section to

1 children and youths in out of home care before the  
2 date that is two years after the date of the enact-  
3 ment of this subtitle or the date on which the  
4 amount appropriated under section 726 equals or ex-  
5 ceeds \$90,000,000, whichever comes first, except  
6 that if a State implements such protections before  
7 either of such dates, the State shall first submit the  
8 implementation plan required under subsection (c).

9 “(f) SUPPLEMENT, NOT SUPPLANT.—Funds appro-  
10 priated under this subtitle shall be used to supplement,  
11 not supplant, Federal and non-Federal funds available  
12 through State and local child welfare agencies for expenses  
13 related to the education of children and youths who are  
14 in out of home care.

15 **“SEC. 733. SPECIAL RULE REGARDING TRANSPORTATION**  
16 **FOR CHILDREN AND YOUTHS IN OUT OF**  
17 **HOME CARE.**

18 “State and local educational agencies shall be re-  
19 quired to ensure that transportation is provided to enable  
20 children and youths in out of home care to remain in their  
21 schools of origin as specified under this subtitle—

22 “(1) when the amount appropriated under sec-  
23 tion 726 equals or exceeds \$140,000,000;

24 “(2) such transportation is otherwise required  
25 by law; or

1           “(3) the responsible child welfare agency or  
2           other entity agrees to reimburse the cost of pro-  
3           viding such transportation.

4   **“SEC. 734. CHILDREN AND YOUTHS AWAITING FOSTER**  
5                           **CARE PLACEMENT.**

6           “Nothing in sections 732 and 733 shall be construed  
7           to relieve States or local educational agencies of responsi-  
8           bility under this subtitle to serve children and youths  
9           awaiting foster care placement.

10   **“SEC. 735. ACTION BY COURT.**

11           “If the right of the birth or adoptive parent or legal  
12           guardian of a child or youth to make educational decisions  
13           for such child or youth has been terminated or suspended  
14           by an order of the court, or if the birth or adoptive parent  
15           or legal guardian cannot be identified or located after rea-  
16           sonable efforts, is not available with reasonable prompt-  
17           ness to assist in enrollment or placement decisions, or is  
18           not acting in the best educational interests of such child  
19           or youth with respect to enrollment or placement deci-  
20           sions, a court may appoint an individual to serve as the  
21           educational decisionmaker of such child or youth who shall  
22           have the same rights as a parent or guardian under this  
23           subtitle. In making such appointment, if such child or  
24           youth is eligible for services under the Individuals with  
25           Disabilities Education Act, the court shall consider wheth-

1 er the individual who is serving as the parent or surrogate  
2 parent under sections 615(b)(2) and 639(a)(5) of such Act  
3 of such child or youth should serve as the educational deci-  
4 sionmaker for the purpose of this subtitle.

5 **“SEC. 736. DEFINITIONS.**

6 “In this subtitle:

7 “(1) CHILDREN AND YOUTHS IN OUT OF HOME  
8 CARE.—The term ‘children and youths in out of  
9 home care’ means children and youths who are in  
10 the custody of a public child welfare agency, includ-  
11 ing foster family homes, kinship care families, group  
12 homes, and other congregate care facilities.

13 “(2) PARENT OR GUARDIAN.—The term ‘parent  
14 or guardian’ means, with respect to children or  
15 youths in out of home care—

16 “(A) the birth or adoptive parent or legal  
17 guardian of such a child or youth, unless such  
18 parent’s or guardian’s right to make edu-  
19 cational decisions for such child or youth has  
20 been terminated or suspended by a court; or

21 “(B) the educational decisionmaker ap-  
22 pointed by a court to make educational deci-  
23 sions for such child or youth.”.

1           (b) CONFORMING AMENDMENT.—The table of con-  
2 tents of the McKinney-Vento Homeless Assistance Act is  
3 amended by adding at the end the following:

“Subtitle C—Implementation of Protection and Services for Children and  
Youths in Out of Home Care

“Sec. 731. Statements of policy.

“Sec. 732. Implementation of protection and services for children and youths  
in out of home care.

“Sec. 733. Special rule regarding transportation for children and youths in out  
of home care.

“Sec. 734. Children and youths awaiting foster care placement.

“Sec. 735. Action by court.

“Sec. 736. Definitions.”.

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