

115TH CONGRESS  
2D SESSION

# H. R. 5414

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to authorize discretion to a State, county, or other political subdivision of a State to delay filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2018

Ms. ROYBAL-ALLARD (for herself and Mrs. TORRES) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend part E of title IV of the Social Security Act to ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from being a placement for a foster child, to authorize discretion to a State, county, or other political subdivision of a State to delay filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or is involved in (including detention pursuant to) an immigration proceeding, unless certain conditions have been met, 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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Help Separated Fami-  
5 lies Act of 2018”.

6 **SEC. 2. IMMIGRATION STATUS ALONE NOT A DISQUALI-**  
7 **FICATION FROM BEING A PLACEMENT FOR A**  
8 **FOSTER CHILD.**

9       Section 471(a)(19) of the Social Security Act (42  
10 U.S.C. 671(a)(19)) is amended—

11           (1) by striking “(19) provides that the State”  
12       and inserting the following:

13           “(19) provides that—

14                   “(A) the State”;

15           (2) by adding at the end the following: “and”;

16       and

17           (3) by adding after and below the end the fol-  
18       lowing:

19                   “(B) such standards shall ensure that the  
20       immigration status alone of a parent, legal  
21       guardian, or relative shall not disqualify the  
22       parent, legal guardian, or relative from being a  
23       placement for a child;”.

1 **SEC. 3. STATE PLAN REQUIREMENT TO ACCEPT CERTAIN**  
2 **DOCUMENTS ISSUED BY FOREIGN ENTITIES**  
3 **AS SUFFICIENT IDENTIFICATION FOR PUR-**  
4 **POSES OF INITIATING A CRIMINAL RECORDS**  
5 **CHECK OR A FINGERPRINT-BASED CHECK.**

6 Section 471(a)(20) of the Social Security Act (42  
7 U.S.C. 671(a)(20)) is amended—

8 (1) in subparagraph (A), by inserting “which  
9 procedures shall require the State (including the  
10 State agency, the child welfare agency of any county  
11 or other political subdivision of the State, and case-  
12 workers and supervisors of any such agency) to ac-  
13 cept a foreign consulate identification card or a for-  
14 eign passport as sufficient identification for purposes  
15 of initiating a criminal records check or a finger-  
16 print-based check,” before “including procedures”;  
17 and

18 (2) in subparagraph (C), by inserting “, which  
19 procedures shall require the State (including the  
20 State agency, the child welfare agency of any county  
21 or other political subdivision of the State, and case-  
22 workers and supervisors of any such agency) to ac-  
23 cept a foreign consulate identification card or a for-  
24 eign passport as sufficient identification for purposes  
25 of initiating a criminal records check or a finger-  
26 print-based check” before the semicolon.

1 **SEC. 4. STATE PLAN REQUIREMENT TO NOTIFY RELATIVES**  
2 **SEEKING PLACEMENT OF A CHILD THAT**  
3 **THEIR IMMIGRATION STATUS WILL NOT BE**  
4 **QUESTIONED.**

5 Section 471(a)(29) of the Social Security Act (42  
6 U.S.C. 671(a)(29)) is amended—

7 (1) by striking “and” at the end of subpara-  
8 graph (C);

9 (2) by adding “and” at the end of subpara-  
10 graph (D); and

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

12 “(E) the immigration status of any such  
13 relative seeking placement of the child with the  
14 relative shall not be questioned, except to the  
15 extent necessary in determining eligibility for  
16 relevant services or programs;”.

17 **SEC. 5. AUTHORIZE STATE DISCRETION TO DELAY FILING**  
18 **FOR TERMINATION OF PARENTAL RIGHTS IN**  
19 **FOSTER CARE CASES IN WHICH OTHERWISE**  
20 **FIT AND WILLING PARENT OR LEGAL GUARD-**  
21 **IAN HAS BEEN REMOVED OR IS INVOLVED IN**  
22 **AN IMMIGRATION PROCEEDING, UNLESS**  
23 **CERTAIN CONDITIONS HAVE BEEN MET.**

24 Section 475(5)(E)(ii) of the Social Security Act (42  
25 U.S.C. 675(5)(E)(ii)) is amended by striking “; or” and  
26 inserting the following: “and a compelling reason in sec-

1 tion 475(5)(E) for the State to not file (or join in the  
2 filing of such a petition) shall include the removal of the  
3 parent from the United States or the involvement of the  
4 parent in (including detention pursuant to) an immigra-  
5 tion proceeding, unless the parent is unfit or unwilling to  
6 be a parent of the child. Before a State may file to termi-  
7 nate the parental rights under such section 475(5)(E), the  
8 State (or the county or other political subdivision of the  
9 State, as the case may be) shall make reasonable efforts—  
10 ”

11 “(I) to identify, locate, and con-  
12 tact (including, if appropriate,  
13 through the diplomatic or consular of-  
14 fices of the country to which the par-  
15 ent was removed or a parent or rel-  
16 ative resides) any parent of the child,  
17 who has been removed from the  
18 United States, and where possible,  
19 any potential adult relative of the  
20 child (as described in section  
21 471(a)(29));

22 “(II) to notify such a parent or  
23 legal guardian of the intent of the  
24 State (or the county or other political  
25 subdivision of the State, as applicable)

1 to file (or join in the filing of) such a  
2 petition;

3 “(III) to reunify the child with  
4 any such parent or legal guardian;  
5 and

6 “(IV) provide and document ap-  
7 propriate services to the parent or  
8 legal guardian; or”.

9 **SEC. 6. CHILD WELFARE SERVICES FOR CHILDREN SEPA-**  
10 **RATED FROM PARENTS DETAINED OR RE-**  
11 **MOVED FROM THE UNITED STATES FOR IM-**  
12 **MIGRATION VIOLATIONS.**

13 (a) STATE PLAN REQUIREMENTS.—Section 471(a)  
14 of the Social Security Act (42 U.S.C. 671(a)) is amend-  
15 ed—

16 (1) by striking “and” at the end of paragraph  
17 (34);

18 (2) by striking the period at the end of para-  
19 graph (35) and inserting “; and”; and

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

21 “(36) provides that the State shall—

22 “(A) ensure that the case manager for a  
23 separated child is capable of communicating in  
24 the native language of such child and of the  
25 family of such child, or an interpreter who is so

1           capable is provided to communicate with such  
2           child and the family of such child at no cost to  
3           the child or the family of such child;

4           “(B) coordinate with the Department of  
5           Homeland Security to make every effort to en-  
6           sure that parents who wish for their child to ac-  
7           company them to their country of origin are  
8           given adequate time and assistance to obtain a  
9           passport and visa, and to collect all relevant  
10          vital documents such as birth certificate, health,  
11          and educational records, and other information;

12          “(C) preserve, to the greatest extent pos-  
13          sible, the privacy and confidentiality of all infor-  
14          mation gathered in the course of administering  
15          the care, custody, and placement of, and follow-  
16          up services provided to, a separated child, con-  
17          sistent with the best interest of such child, by  
18          not disclosing such information to other govern-  
19          ment agencies or persons (other than a parent,  
20          legal guardian, or relative caregiver of such  
21          child), except that the head of the State agency  
22          (or the county or other political subdivision of  
23          the State, as applicable) may disclose such in-  
24          formation, after placing a written record of the  
25          disclosure in the file of the child—

1           “(i) to a consular official for the pur-  
2           pose of reunification of a child with a par-  
3           ent, legal guardian, or relative caregiver  
4           who has been removed or is involved in an  
5           immigration proceeding, unless the child,  
6           or their parent, legal guardian, or relative  
7           has refused contact with, or the sharing of  
8           personal or identifying information with,  
9           the government of their country of origin;  
10          or

11           “(ii) when authorized to do so by the  
12          child (if the child has attained 18 years of  
13          age) if the disclosure is consistent with the  
14          best interest of the child; and

15           “(D) not less frequently than annually,  
16          compile, update, and publish a list of entities in  
17          the State that are qualified to provide legal rep-  
18          resentation services for a separated child, in a  
19          language such that a child can read and under-  
20          stand.”.

21          (b) ADDITIONAL INFORMATION TO BE INCLUDED IN  
22          CASE PLAN.—Section 475(1) of such Act (42 U.S.C.  
23          675(1)) is amended by adding at the end the following:

24           “(H) In the case of a separated child with  
25          respect to whom the State plan requires the



1 State to provide services pursuant to section  
2 471(a)(36)—

3 “(i) the location of the parent or legal  
4 guardian referred to in paragraph (13)(A)  
5 of this subsection from whom the child has  
6 been separated; and

7 “(ii) a written record of each disclo-  
8 sure to a government agency or person  
9 (other than such a parent or legal guard-  
10 ian) of information gathered in the course  
11 of tracking the care, custody, and place-  
12 ment of, and follow-up services provided to,  
13 the child.”.

14 (c) SEPARATED CHILD DEFINED.—Section 475 of  
15 such Act (42 U.S.C. 675) is amended by adding at the  
16 end the following:

17 “(13) The term ‘separated child’ means an indi-  
18 vidual who—

19 “(A) has a parent or legal guardian who  
20 has been detained by a Federal, State, or local  
21 law enforcement agency in the enforcement of  
22 an immigration law, or removed from the  
23 United States as a result of a violation of such  
24 a law; and

1                   “(B) is in the care or supervision of a  
2                   State.”.

3           (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect on the first day of the first  
5 calendar quarter that begins after the 1-year period that  
6 begins with the date of the enactment of this Act.

7 **SEC. 7. EFFECTIVE DATE.**

8           (a) **IN GENERAL.**—Except as otherwise provided in  
9 this Act, the amendments made by this Act shall take ef-  
10 fect on the first day of the first fiscal year beginning on  
11 or after the date of the enactment of this Act, and shall  
12 apply to payments under part E of title IV of the Social  
13 Security Act for calendar quarters beginning on or after  
14 such date.

15           (b) **DELAY PERMITTED IF STATE LEGISLATION RE-**  
16 **QUIRED.**—If the Secretary of Health and Human Services  
17 determines that State legislation (other than legislation  
18 appropriating funds) is required in order for a State plan  
19 approved under part E of title IV of the Social Security  
20 Act to meet the additional requirements imposed by the  
21 amendments made by this Act, the plan shall not be re-  
22 garded as failing to meet any of the additional require-  
23 ments before the first day of the first calendar quarter  
24 beginning after the first regular session of the State legis-  
25 lature that begins after the date of the enactment of this

1 Act. For purposes of the preceding sentence, if the State  
2 has a 2-year legislative session, each year of the session  
3 is deemed to be a separate regular session of the State  
4 legislature.

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