

116TH CONGRESS
1ST SESSION

S. 1599

To amend the Internal Revenue Code of 1986 to create a refundable tax credit for foster families, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2019

Mr. KAINE (for himself and Mr. JONES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to create a refundable tax credit for foster families, 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 “Foster Care Tax Cred-
5 it Act”.

6 **SEC. 2. FOSTER CARE TAX CREDIT.**

7 (a) ALLOWANCE OF CREDIT.—

8 (1) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code

1 of 1986 is amended by inserting after section 36B
 2 the following new section:

3 **“SEC. 36C. FOSTER CARE TAX CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
 5 gible taxpayer, there shall be allowed as a credit against
 6 the tax imposed by this chapter for the taxable year an
 7 amount equal to \$850.

8 “(b) LIMITATION.—

9 “(1) IN GENERAL.—The amount of the credit
 10 allowable under subsection (a) (determined without
 11 regard to this subsection) shall be reduced (but not
 12 below zero) by the amount which bears the same
 13 ratio to such credit (as so determined) as—

14 “(A) the excess of—

15 “(i) the taxpayer’s modified adjusted
 16 gross income for such taxable year, over

17 “(ii) the threshold amount, bears to

18 “(B) \$17,000.

19 “(2) THRESHOLD AMOUNT.—For purposes of
 20 paragraph (1), the term ‘threshold amount’ means—

21 “(A) \$250,000, in the case of a joint re-
 22 turn,

23 “(B) \$150,000, in the case of an individual
 24 who is not married, and

1 “(C) \$125,000, in the case of a married
2 individual filing a separate return.

3 For purposes of this paragraph, marital status shall
4 be determined under section 7703.

5 “(3) MODIFIED ADJUSTED GROSS INCOME.—
6 For purposes of this subsection, the term ‘modified
7 adjusted gross income’ means the adjusted gross in-
8 come of the taxpayer for the taxable year increased
9 by any amount excluded from gross income under
10 section 911, 931, or 933.

11 “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-
12 tion—

13 “(1) IN GENERAL.—The term ‘eligible taxpayer’
14 means, with respect to any taxable year, any tax-
15 payer—

16 “(A) with whom a qualifying foster child
17 was placed for a period of not less than 1
18 month during such taxable year, and

19 “(B) for whom a credit under section 24
20 with respect to such eligible foster child is not
21 allowed for such taxable year.

22 “(2) QUALIFYING FOSTER CHILD.—The term
23 ‘qualifying foster child’ means an eligible foster child
24 (within the meaning of section 152(f)(1)(C))—

25 “(A) who has not attained age 17, and

1 “(B) who is a citizen, national, or resident
2 of the United States.

3 “(3) CALENDAR MONTH.—For purposes of this
4 paragraph (1)(A), if a foster child resides in the
5 home of the taxpayer for more than 15 consecutive
6 days of a calendar month but fewer than the total
7 number of days in such calendar month, such foster
8 child shall be treated as residing in the home of the
9 taxpayer for the full calendar month.

10 “(d) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
11 ERLY CLAIMED CREDIT IN PRIOR YEAR.—

12 “(1) TAXPAYERS MAKING PRIOR FRAUDULENT
13 OR RECKLESS CLAIMS.—

14 “(A) IN GENERAL.—No credit shall be al-
15 lowed under this section for any taxable year in
16 the disallowance period.

17 “(B) DISALLOWANCE PERIOD.—For pur-
18 poses of subparagraph (A), the disallowance pe-
19 riod is—

20 “(i) the period of 10 taxable years
21 after the most recent taxable year for
22 which there was a final determination that
23 the taxpayer’s claim of credit under this
24 section was due to fraud, and

1 “(ii) the period of 2 taxable years
 2 after the most recent taxable year for
 3 which there was a final determination that
 4 the taxpayer’s claim of credit under this
 5 section was due to reckless or intentional
 6 disregard of rules and regulations (but not
 7 due to fraud).

8 “(2) TAXPAYERS MAKING IMPROPER PRIOR
 9 CLAIMS.—In the case of a taxpayer who is denied
 10 credit under this section for any taxable year as a
 11 result of the deficiency procedures under subchapter
 12 B of chapter 63, no credit shall be allowed under
 13 this section for any subsequent taxable year unless
 14 the taxpayer provides such information as the Sec-
 15 retary may require to demonstrate eligibility for
 16 such credit.”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 6211(b)(4) of the Internal
 19 Revenue Code of 1986 is amended by inserting
 20 “36C,” after “36B,”.

21 (B) Section 1324(b)(2) of title 31, United
 22 States Code, is amended by inserting “25E,”
 23 after “25A,”.

24 (C) The table of sections for subpart C of
 25 part IV of subchapter A of chapter 1 of the In-

1 ternal Revenue Code of 1986 is amended by in-
 2 serting after the item relating to section 36B
 3 the following new item:

“Sec. 36C. Foster care tax credit.”.

4 (b) INFORMATION RETURNS RELATING TO FOSTER
 5 CHILD PLACEMENT.—

6 (1) IN GENERAL.—Subpart A of part III of
 7 subchapter A of chapter 61 of the Internal Revenue
 8 Code of 1986 is amended by inserting after section
 9 6039J the following new section:

10 **“SEC. 6039K. INFORMATION REPORTING WITH RESPECT TO**
 11 **FOSTER CHILD PLACEMENT.**

12 “(a) IN GENERAL.—Every authorized placement
 13 agency and court which places a qualifying foster child
 14 with a person during a calendar year shall, at such time
 15 as the Secretary shall prescribe, make a return described
 16 in subsection (b).

17 “(b) FORM AND MANNER OF RETURN.—A return is
 18 described in this subsection if such return—

19 “(1) is in such form as the Secretary may pre-
 20 scribe, and

21 “(2) contains, with respect to each qualifying
 22 foster child placed during the calendar year—

23 “(A) the name, address, and TIN of each
 24 individual with whom such qualifying foster
 25 child was placed,

1 “(B) the name of the qualifying foster
2 child, and

3 “(C) the dates during which such place-
4 ment occurred.

5 “(c) STATEMENTS TO BE FURNISHED TO FOSTER
6 PARENTS.—

7 “(1) IN GENERAL.—Every person required to
8 make a return under subsection (a) shall furnish to
9 each individual whose name is required to be set
10 forth under subsection (b)(2)(A) a written statement
11 showing—

12 “(A) the name and address of the person
13 required to make such return and the phone
14 number of the information contact for such per-
15 son, and

16 “(B) the information required to be shown
17 on the return with respect to such individual.

18 “(2) TIME FOR FURNISHING STATEMENTS.—

19 The written statement required under paragraph (1)
20 shall be furnished on or before January 31 of the
21 year following the calendar year for which the return
22 under subsection (a) was required to be made.

23 “(d) QUALIFYING FOSTER CHILD.—For purposes of
24 this section, the term ‘qualifying foster child’ has the
25 meaning given such term under section 36C(c)(2).”.

1 (2) ASSESSABLE PENALTIES.—

2 (A) Section 6724(d)(1)(B) of such Code is
 3 amended by striking “or” at the end of clause
 4 (xxv), by striking “and” at the end of clause
 5 (xxvi) and inserting “or”, and by inserting after
 6 clause (xxvi) the following new clause:

7 “(xxvii) section 6039K (relating to in-
 8 formation returns with respect to foster
 9 child placement),”.

10 (B) Section 6724(d)(2) of such Code is
 11 amended by redesignating the second subpara-
 12 graph (JJ) as subparagraph (KK), by striking
 13 “or” at the end of subparagraph (II), by strik-
 14 ing the period at the end of the first subpara-
 15 graph (JJ), by striking the period at the end of
 16 subparagraph (KK) (as so redesignated) and
 17 inserting a comma, and by inserting after such
 18 subparagraph (KK) the following new subpara-
 19 graph:

20 “(LL) section 6039K(c) (relating to state-
 21 ments with respect to foster child placement).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-
 23 tions of subpart A of part III of subchapter A of
 24 chapter 61 of such Code is amended by inserting

1 after the item relating to section 6039J the fol-
 2 lowing new item:

“Sec. 6039K. Information reporting with respect to foster child placement.”.

3 (c) ELECTION NOT TO TAKE CHILD TAX CREDIT.—
 4 Section 24(h)(4) of the Internal Revenue Code of 1986
 5 is amended by adding at the end the following new sub-
 6 paragraph:

7 “(D) ELECTION NOT TO TAKE CREDIT.—

8 A taxpayer may elect not to have this para-
 9 graph apply with respect to any dependent of
 10 the taxpayer to whom a credit would otherwise
 11 be allowed by reason of subparagraph (A). In
 12 any case in which a taxpayer makes an election
 13 under this subparagraph, the credit allowed
 14 under this section shall be treated as not al-
 15 lowed with respect to such dependent.”.

16 (d) APPLICATION OF TAX RETURN PREPARER DUE
 17 DILIGENCE PENALTY.—Section 6695(g) of the Internal
 18 Revenue Code of 1986 is amended by striking “or 32”
 19 and inserting “32, or 36C”.

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to calendar months beginning after
 22 December 31, 2019, in taxable years beginning after such
 23 date.

24 (f) EDUCATION.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services (or the Secretary’s delegate), in co-
3 ordination with the Secretary of the Treasury or
4 such Secretary’s delegate, shall identify provisions in
5 the Internal Revenue Code of 1986 that can be used
6 by or can benefit foster families, and shall increase
7 outreach efforts to provide information and edu-
8 cational materials regarding such provisions to State
9 and Indian tribal foster care agencies and to foster
10 families.

11 (2) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated such sums
13 as necessary for the purposes of carrying out para-
14 graph (1).

15 **SEC. 3. STUDY AND REPORT ON EMERGENCY AND SHORT-**
16 **TERM FOSTER PLACEMENTS.**

17 (a) STUDY.—The Secretary of Health and Human
18 services, in coordination with the Secretary of the Treas-
19 ury (or the Secretary’s delegate), shall conduct a study
20 on—

21 (1) the costs and financial burdens on foster
22 families who experience multiple emergency and
23 short-term foster placements annually; and

1 (2) challenges to verifying and documenting the
2 placement of children in emergency and short-term
3 placement.

4 For purposes of this subsection, a short-term placement
5 is a placement that lasts less than 1 week.

6 (b) REPORT.—Not later than 1 year after the date
7 of the enactment of this Act, the Secretary of Health and
8 Human Services shall submit to Congress a report on the
9 study conducted under subsection (a).

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