



EXECUTIVE ORDERS

Executive Order on Strengthening the Child Welfare System for America's Children

LAW & JUSTICE

Issued on: June 24, 2020



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. Every child deserves a family. Our States and communities have both a legal obligation, and the privilege, to care for our Nation's most vulnerable children.

The best foster care system is one that is not needed in the first place. My Administration has been focused on prevention strategies that keep children safe while strengthening families so that children do not enter foster care unnecessarily. Last year, and for only the second time since 2011, the number of children in the foster care system declined, and for the third year in a row, the

number of children entering foster care has declined.

But challenges remain. Too many young people who are in our foster care system wait years before finding the permanency of family. More than 400,000 children are currently in foster care. Of those, more than 124,000 children are waiting for adoption, with nearly 6 out of 10 (58.4 percent) having already become legally eligible for adoption.

More than 50 percent of the children waiting for adoption have been in foster care — without the security and constancy of a permanent family — for 2 years or more. The need for stability and timely permanency is particularly acute for children 9 years and older, children in sibling groups, and those with intellectual or physical disabilities.

Even worse, too many young men and women age out of foster care having never found a permanent, stable family. In recent years, approximately 20,000 young people have aged out of foster care each year in the United States.

Research has shown that young people who age out of the foster care system are likely to experience significant, and significantly increased, life challenges — 40 percent of such young people studied experienced homelessness; 50 percent were unemployed at age 24; 25 percent experienced post-traumatic stress disorder; and 71 percent became pregnant by age 21. These are unacceptable outcomes.

Several factors have contributed to the number of children who wait in foster care for extended periods. First, State and local child welfare agencies often do not have robust partnerships with private community organizations, including

faith-based organizations. Second, those who step up to be resource families for children in foster care — including kin, guardians, foster parents, and adoptive parents — may lack adequate support. Third, too often the processes and systems meant to help children and families in crisis have instead created bureaucratic barriers that make it more difficult for these children and families to get the help they need.

It is the goal of the United States to promote a child welfare system that reduces the need to place children into foster care; achieves safe permanency for those children who must come into foster care, and does so more quickly and more effectively; places appropriate focus on children who are waiting for adoption, especially those who are 9 years and older, are in sibling groups, or have disabilities; and decreases the proportion of young adults who age out of the foster care system.

Children from all backgrounds have the potential to become successful and thriving adults. Yet without a committed, loving family that can provide encouragement, stability, and a lifelong connection, some children may never receive the support needed to realize that potential.

This order will help to empower families who answer the call to open their hearts and homes to children who need them. My Administration is committed to helping give as many children as possible the stability and support that family provides by dramatically improving our child welfare system.

Sec. 2. Encouraging Robust Partnerships Between State Agencies and Public, Private, Faith-based, and Community Organizations. (a) In order to facilitate

close partnerships between State agencies and nongovernmental organizations, including public, private, faith-based, and community groups, the Secretary of Health and Human Services (the “Secretary”) shall provide increased public access to accurate, up-to-date information relevant to strengthening the child welfare system, including by:

(i) Publishing data to aid in the recruitment of community support. Within 1 year of the date of this order and each year thereafter, the Secretary shall submit to the President, through the Assistant to the President for Domestic Policy, a report that provides information about typical patterns of entry, recent available counts of children in foster care, and counts of children waiting for adoption. To the extent appropriate and consistent with applicable law, including all privacy laws, this data will be disaggregated by county or other sub-State level, child age, placement type, and prior time in care.

(ii) Collecting needed data to preserve sibling connections.

(A) Within 2 years of the date of this order, the Secretary shall collect information from appropriate State and local agencies on the number of children in foster care who have siblings in foster care and who are not currently placed with their siblings.

(B) Within 3 years of the date of this order, to support the goal of keeping siblings together (42 U.S.C. 671(a)(31)(A)), the Secretary shall develop data analysis methods to report on the experience of children entering care in sibling groups, and the extent to which they are placed together. The Secretary’s analysis shall also assess the extent to which siblings who are legally eligible for

adoption achieve permanency together.

(iii) Expanding the number of homes for children and youth.

(A) Within 2 years of the date of this order, the Secretary shall develop a more rigorous and systematic approach to collecting State administrative data as part of the Child and Family Services Review required by section 1123A of the Social Security Act (the “Act”) (42 U.S.C. 1320a–2a). Data collected shall include:

(1) demographic information for children in foster care and waiting for adoption;

(2) the number of currently available foster families and their demographic information;

(3) the average foster parent retention rate and average length of time foster parents remain certified;

(4) a target number of foster homes needed to meet the needs of children in foster care; and

(5) the average length of time it takes to complete foster and adoptive home certification.

(B) The Secretary shall ensure, to the extent consistent with applicable law, that States report to the Secretary regarding strategies for coordinating with nongovernmental organizations, including faith-based and community organizations, to recruit and support foster and adoptive families.

(b) Within 1 year of the date of this order, the Secretary shall issue guidance to Federal, State, and local agencies on partnering with nongovernmental organizations. This guidance shall include best practices for information sharing, providing needed services to families to support prevention of children entering foster care, family preservation, foster and adoptive home recruitment and retention, respite care, post-placement family support, and support for older youth. This guidance shall also make clear that faith-based organizations are eligible for partnerships under title IV-E of the Act (42 U.S.C. 670 et seq.), on an equal basis, consistent with the First Amendment to the Constitution.

Sec. 3. Improving Access to Adequate Resources for Caregivers and Youth. While many public, private, faith based, and community resources and other sources of support exist, many American caregivers still lack connection with and access to adequate resources. Within 1 year of the date of this order, the Secretary shall equip caregivers and those in care to meet their unique challenges, by:

(a) Expanding educational options. To the extent practicable, the Secretary shall use all existing technical assistance resources to promote dissemination and State implementation of the National Training and Development Curriculum, including, when appropriate, in non-classroom environments.

(b) Increasing the availability of trauma-informed training. The Secretary shall provide an enhanced, web-based, learning-management platform to house the information generated by the National Adoption Competency Mental Health Training Initiative. Access to this web-based training material will be provided free of charge for all child welfare and mental health practitioners.

(c) Supporting guardianship. The Secretary shall provide information to States regarding the importance and availability of funds to increase guardianship through the title IV-E Guardianship Assistance Program (42 U.S.C. 673), which provides Federal reimbursement for payments to guardians and for associated administrative costs. This information shall include which States have already opted into the program.

(d) Enhancing support for kinship care and youth exiting foster care. The Secretary shall establish a plan to address barriers to accessing existing Federal assistance and benefits for eligible individuals.

Sec. 4. Ensuring Equality of Treatment and Access for all Families. The Howard M. Metzenbaum Multiethnic Placement Act of 1994 (the “Multiethnic Placement Act”) (Public Law 103-382), as amended, prohibits agencies from denying to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin (42 U.S.C. 671(a)(18)(A)); prohibits agencies from delaying or denying the placement of a child for adoption or into foster care on the basis of race, color, or national origin (id. 671(a)(18)(B)); and requires agencies to diligently recruit a diverse base of foster and adoptive parents to better reflect the racial and ethnic makeup of children in out-of-home care (id. 662(b)(7)). To further the goals of the Multiethnic Placement Act, the Secretary shall:

(a) within 6 months of the date of this order, initiate a study regarding the implementation of these requirements nationwide;

(b) within 1 year of the date of this order, update guidance, as necessary,

regarding implementation of the Multiethnic Placement Act; and

(c) within 1 year of the date of this order, publish guidance regarding the rights of parents, prospective parents, and children with disabilities (including intellectual, developmental, or physical disabilities).

Sec. 5. Improving Processes to Prevent Unnecessary Removal and Secure Permanency for Children. (a) Federal Review of Reasonable Effort Determinations and Timeliness Requirements.

(i) Within 2 years of the date of this order, the Secretary shall require that both the title IV-E reviews conducted pursuant to 45 CFR 1356.71 and the Child and Family Services Reviews conducted pursuant to 45 CFR 1355.31–1355.36 specifically and adequately assess the following requirements:

(A) reasonable efforts to prevent removal;

(B) filing a petition for Termination of Parental Rights within established statutory timelines and court processing of such petition, unless statutory exemptions apply;

(C) reasonable efforts to finalize permanency plans; and

(D) completion of relevant required family search and notifications and how such efforts are reviewed by courts.

(ii) In cases in which it is determined that statutorily required timelines and

efforts have not been satisfied, the Secretary shall make use of existing authority in making eligibility determinations and disallowances consistent with section 1123A(b)(3)(4) of the Act (42 U.S.C. 1320a-2a(b)(3)(4)).

(iii) Within 2 years of the date of this order, the Secretary shall develop metrics to track permanency outcomes in each State and measure State performance over time.

(iv) Within 6 months of the date of this order, the Secretary shall provide guidance to States regarding flexibility in the use of Federal funds to support and encourage high-quality legal representation for parents and children, including pre-petition representation, in their efforts to prevent the removal of children from their families, safely reunify children and parents, finalize permanency, and ensure that their voices are heard and their rights are protected. The Secretary shall also ensure collection of data regarding State use of Federal funds for this purpose.

(b) Risk and Safety Assessments.

(i) Within 18 months of the date of this order, the Secretary shall collect States' individual standards for conducting risk and safety assessments required under section 106(b)(2)(B)(iv) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(B)(iv)).

(ii) Within 2 years of the date of this order, the Secretary shall outline reasonable best practice standards for risk and safety assessments, including how to address domestic violence and substance abuse.

Sec. 6. Indian Child Welfare Act. Nothing in this order shall alter the implementation of the Indian Child Welfare Act or replace the tribal consultation process.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
June 24, 2020.