117TH CONGRESS 1ST SESSION

H. R. _____

To amend parts B and E of title IV of the Social Security Act to expand nondiscrimination protections for children and families and offer greater flexibility to States before petitioning to terminate parental rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Bass introduced the following bill; which was referred to the Committee

A BILL

To amend parts B and E of title IV of the Social Security Act to expand nondiscrimination protections for children and families and offer greater flexibility to States before petitioning to terminate parental rights, 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  
4  SECTION 1. SHORT TITLE.
5  This Act may be cited as the “21st Century Children
6  and Families Act”.

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November 3, 2021 (5:59 p.m.)
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SEC. 2. EXPANSION OF NONDISCRIMINATION PROTECTIONS FOR CHILDREN AND FAMILIES IN ADOPTION AND FOSTER CARE PLACEMENT.

(a) State Plan Requirements Relating to Adoption and Foster Care Placement.—Section 471(a)(18) of the Social Security Act (42 U.S.C. 671(a)(18)) is amended to read as follows:

“(18) provides that—

“(A) neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

“(i) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, sex (including sexual orientation, gender identity, and gender expression), religion, or national origin of the person, or of the child, involved;

“(ii) delay or deny the provision of foster care prevention support and services, family preservation or reunification services, kinship supports, or adoption or guardianship subsidies to children, parents or kin caregivers on the basis of the race, color, sex (including sexual orientation,
gender identity, and gender expression),
religion, or national origin of the parent,
kin caregiver, or of the child, involved; or
“(iii) significantly delay or deny the
placement of a child for adoption or into
foster care, or otherwise discriminate in
making a placement decision solely on the
basis of the race, color, sex (including sexual orientation, gender identity, and gender expression), religion, or national origin of the adoptive or foster parent, or the child, involved; and
“(B) an agency or entity to which subpara-
graph (A) applies—
“(i) may consider, among the factors
used to determine the best interests of the child, the capacity of the prospective foster or adoptive parents to affirm the cultural, ethnic, sexual orientation, gender identity, gender expression, racial, or religious back-
ground of the child; and
“(ii) when requested by the child or a parent of the child, shall consider, among the factors used to determine the best in-
terests of the child—
“(I) the cultural, ethnic, sexual orientation, gender identity, gender expression, racial, or religious background of the child; and

“(II) the capacity of the prospective foster or adoptive parents to affirm the identities of the child;”.

(b) **STATE PLAN REQUIREMENT RELATING TO PROVISION OF CHILD WELFARE SERVICES.**—Section 422(b)(7) of such Act (42 U.S.C. 622(b)(7)) is amended by inserting “substantiate with clear and convincing data and analysis that the child welfare agency is addressing disproportionality in the State child welfare system, and disparities in access to community-based services, array, and contracting; and” before “provide”.

(e) **EFFECTIVE DATE.**—

(1) IN GENERAL.—The amendments made by this section shall take effect on the 1st day of the 1st fiscal year beginning on or after the date of the enactment of this Act, and shall apply to payments under subpart 1 of part B and part E of title IV of the Social Security Act for calendar quarters beginning on or after such date.

(2) **DELAY PERMITTED IF STATE LEGISLATION REQUIRED.**—If the Secretary of Health and Human
Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to subpart 1 of part B or part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, if the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(3) Application to programs operated by Indian tribal organizations.—In the case of an Indian tribe, tribal organization, or tribal consortium which the Secretary of Health and Human Services determines requires time to take action necessary to comply with the additional requirements imposed by the amendments made by this section (whether the tribe, organization, or tribal consortium has a plan under section 479B of the Social Security Act or a cooperative agreement or contract entered into with
a State), the Secretary shall provide the tribe, organization, or tribal consortium with such additional time as the Secretary determines is necessary for the tribe, organization, or tribal consortium to take the action to comply with the additional requirements before being regarded as failing to comply with the requirements.

SEC. 3. GREATER FLEXIBILITY FOR STATES BEFORE PETITIONING TO MODIFY PARENTAL RIGHTS.

Section 475(5)(E) of the Social Security Act (42 U.S.C. 675(5)(E)) is amended—

(1) by striking “15 of the most recent 22 months” and inserting “24 consecutive months and who is not in the care of kin (including fictive kin), the State may consider filing or joining a petition for modification or termination of parental rights only after demonstrating by clear and convincing evidence that the State has provided to the family of the child such services, supports, and time needed to address the reasons for foster care and enable the family to safely reunify, and by demonstrating compelling reasons why the modification or termination is in the best interest of the child, and if the child is living with a kinship (including fictive kinship) caregiver, the State agency shall provide a meaning-
ful opportunity for the kinship (including fictive kinship) caregiver to express whether modification or termination is or is not in the best interests of the child and shall document such in the case plan of the child’’;

(2) by striking clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively;

(3) in clause (ii) (as so redesignated by paragraph (2) of this section), by striking the semicolon and inserting a comma; and

(4) by inserting after and below clause (ii) (as so redesignated) the following:

“except that, in the case of a child to whom this subparagraph applies solely because the child has been in foster care under the responsibility of the State for 24 consecutive months and is not in the care of kin (including fictive kin), the State may not file or join such a petition if a parent of the child is actively engaged in services to address the reasons the child entered care (including treatment for substance use disorder, mental health concerns, or parenting skills), if based principally on the incarceration of a parent, or if based principally on
the detention of the parent by the Department
of Homeland Security or the deportation of the
parent;”.

SEC. 4. EXPANSION OF PURPOSES OF COURT IMPROVE-
MENT PROGRAM.

(a) In General.—Section 438 of the Social Security
Act (42 U.S.C. 629h) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph
(A), by striking “state” and inserting “State”;

(B) in subparagraph (A)—

(i) by inserting “and their families”

before “in a timely and complete manner”;

and

(ii) by striking “, as set forth in the
Adoption and Safe Families Act of 1997
(Public Law 105–89), including the re-
quirements in the Act related to concur-
rent planning”;

(C) in subparagraph (B), by striking

“and” at the end;

(D) in subparagraph (C), by adding “and”
at the end; and

(E) by adding at the end the following:
“(D) to increase access to high quality legal representation at all stages of a child welfare case for all parties to the case, including the children, the parents of the children, and, where applicable, kinship care providers and Indian tribes;”; and

(2) by striking subsection (b) and inserting the following:

“(b) APPLICATIONS.—In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and kinship (including fictive kinship) caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, shall provide for the training of judicial officers, attorneys, and court and child welfare staff in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home, and shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

“(1) a description of how courts and child welfare agencies on the local and State levels will use
not less than 30 percent of grant funds to collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

“(2) a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

“(3) a demonstration that a portion of the grant will be used to develop and implement, on an ongoing and regular basis, training for judicial officers, attorneys, and court and child welfare staff on race, culture, and equity, and, in the development and implementation of that training, will include current and former foster children, parents who have experienced child removals by State child welfare agencies, and kinship (including fictive kinship) care providers; and
“(4) a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect on October 1, 2021, immediately after the amendments made by section 305(b) of division CC of the Consolidated Appropriations Act, 2021 (Public Law 116–260) take effect.