

110TH CONGRESS  
2D SESSION

# S. 3038

To amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MAY 20, 2008

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Improved Adoption Incentives and Relative Guardianship  
6 Support Act of 2008”.

1 (b) TABLE OF CONTENTS.—Table of contents for this  
 2 Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXTENSION AND IMPROVEMENT OF ADOPTION  
 INCENTIVES

Sec. 101. Extension of adoption incentives program.

Sec. 102. Promotion of adoption of children with special needs.

TITLE II—SUPPORT FOR RELATIVE GUARDIANSHIPS

Sec. 201. Relative guardianship assistance payments for children.

TITLE III—MISCELLANEOUS

Sec. 301. Authority for comparisons and disclosures of information in the Federal Parent Locator Service for child welfare, foster care, and adoption assistance program purposes.

3 **TITLE I—EXTENSION AND IM-**  
 4 **PROVEMENT OF ADOPTION**  
 5 **INCENTIVES**

6 **SEC. 101. EXTENSION OF ADOPTION INCENTIVES PRO-**  
 7 **GRAM.**

8 (a) 5-YEAR EXTENSION.—Section 473A of the Social  
 9 Security Act (42 U.S.C. 673b) is amended—

10 (1) in subsection (b)(4), by striking “in the  
 11 case of fiscal years 2001 through 2007,”;

12 (2) in subsection (b)(5), by striking “1998  
 13 through 2007” and inserting “2008 through 2012”;

14 (3) in subsection (c)(2), by striking “each of  
 15 fiscal years 2002 through 2007” and inserting “a  
 16 fiscal year”; and

17 (4) in each of subsections (h)(1)(D) and (h)(2),  
 18 by striking “2008” and inserting “2013”.

1 (b) ADDITIONAL INCENTIVE PAYMENT FOR EXCEED-  
2 ING THE HIGHEST EVER FOSTER CHILD ADOPTION  
3 RATE.—

4 (1) IN GENERAL.—Section 473A(d) of such Act  
5 (42 U.S.C. 673b(b)(1)) is amended—

6 (A) in paragraph (1), in the matter pre-  
7 ceding subparagraph (A), by striking “para-  
8 graph (2)” and inserting “paragraphs (2) and  
9 (3)”;

10 (B) in paragraph (2), by striking “this sec-  
11 tion” each place it appears and inserting “para-  
12 graph (1)”;

13 (C) by adding at the end the following new  
14 paragraph:

15 “(3) INCREASED INCENTIVE PAYMENT FOR EX-  
16 CEEDING THE HIGHEST EVER FOSTER CHILD ADOP-  
17 TION RATE.—

18 “(A) IN GENERAL.—If—

19 “(i) for fiscal year 2009 or any fiscal  
20 year thereafter the total amount of adop-  
21 tion incentive payments payable under  
22 paragraph (1) are less than the amount  
23 appropriated under subsection (h) for the  
24 fiscal year; and

1           “(ii) a State’s foster child adoption  
2           rate for that fiscal year exceeds the highest  
3           ever foster child adoption rate determined  
4           for the State,

5           then the adoption incentive payment otherwise  
6           determined under paragraph (1) for the State  
7           shall be increased, subject to subparagraph (C),  
8           by the amount determined for the State under  
9           subparagraph (B).

10           “(B) AMOUNT OF INCREASE.—For pur-  
11           poses of subparagraph (A), the amount deter-  
12           mined under this subparagraph with respect to  
13           a State and a fiscal year is the amount equal  
14           to the product of—

15                   “(i) \$1,000; and

16                   “(ii) the excess of—

17                           “(I) the number of foster child  
18                           adoptions in the State in the fiscal  
19                           year; over

20                           “(II) the product (rounded to the  
21                           nearest whole number) of—

22                                   “(aa) the highest ever foster  
23                                   child adoption rate determined  
24                                   for the State; and

1                   “(bb) the number of chil-  
2                   dren in foster care under the su-  
3                   pervision of the State on the last  
4                   day of the preceding fiscal year.

5                   “(C) PRO RATA ADJUSTMENT IF INSUFFI-  
6                   CIENT FUNDS AVAILABLE.—For any fiscal year,  
7                   if the total amount of increases in adoption in-  
8                   centive payments otherwise payable under this  
9                   paragraph for a fiscal year exceeds the amount  
10                  available for such increases for the fiscal year,  
11                  the amount of the increase payable to each  
12                  State under this paragraph for the fiscal year  
13                  shall be—

14                  “(i) the amount of the increase that  
15                  would otherwise be payable to the State  
16                  under this paragraph for the fiscal year;  
17                  multiplied by

18                  “(ii) the percentage represented by  
19                  the amount so available for the fiscal year,  
20                  divided by the total amount of increases  
21                  otherwise payable under this paragraph for  
22                  the fiscal year.”.

23                  (2) DEFINITIONS.—Subsection (g) of section  
24                  473A of such Act (42 U.S.C. 673b) is amended by  
25                  adding at the end the following:

1           “(7) HIGHEST EVER FOSTER CHILD ADOPTION  
 2 RATE.—The term ‘highest ever foster child adoption  
 3 rate’ means, with respect to any fiscal year, the  
 4 highest foster child adoption rate determined for any  
 5 fiscal year in the period that begins with fiscal year  
 6 1998 and ends with the preceding fiscal year.

7           “(8) FOSTER CHILD ADOPTION RATE.—The  
 8 term ‘foster child adoption rate’ means, with respect  
 9 to a State and a fiscal year, the percentage deter-  
 10 mined by dividing—

11                   “(A) the number of foster child adoptions  
 12 finalized in the State during the fiscal year; by

13                   “(B) the number of children in foster care  
 14 under the supervision of the State on the last  
 15 day of the preceding fiscal year.”.

16           (3) CONFORMING AMENDMENTS.—

17                   (A) STATE ELIGIBILITY.—Section  
 18 473A(b)(2) of such Act (42 U.S.C. 673b(b)(2))  
 19 is amended—

20                           (i) in subparagraph (A), by striking  
 21 “or” at the end;

22                           (ii) in subparagraph (B), by striking  
 23 the period at the end and inserting “; or”;  
 24 and

1 (iii) by adding at the end the fol-  
 2 lowing:

3 “(C) the State’s foster child adoption rate for  
 4 the fiscal year exceeds the highest ever foster child  
 5 adoption rate determined for the State;”.

6 (B) DATA.—Section 473A(c)(2) of such  
 7 Act (42 U.S.C. 673b(c)(2)), as amended by  
 8 subsection (a)(3), is amended by inserting “,  
 9 and the foster child adoption rate for the State  
 10 for the fiscal year,” after “during a fiscal  
 11 year,”.

12 (c) INCREASE IN INCENTIVE PAYMENTS FOR SPE-  
 13 CIAL NEEDS ADOPTIONS AND OLDER CHILD ADOP-  
 14 TIONS.—Section 473A(d)(1) of such Act (42 U.S.C.  
 15 673b(d)(1)) is further amended—

16 (1) in subparagraph (C), as redesignated by  
 17 subsection (b), by striking “\$2,000” and inserting  
 18 “\$3,000”; and

19 (2) in subparagraph (D), as so redesignated, by  
 20 striking “\$4,000” and inserting “\$8,000”.

21 (d) UPDATING OF FISCAL YEAR USED IN DETER-  
 22 MINING BASE NUMBERS OF ADOPTIONS.—Section  
 23 473A(g) of such Act (42 U.S.C. 673b(g)) is amended—

24 (1) in paragraph (3), by striking “means” and  
 25 all that follows and inserting “means, with respect

1 to any fiscal year, the number of foster child adop-  
2 tions in the State in fiscal year 2007.”;

3 (2) in paragraph (4)—

4 (A) by inserting “that are not older child  
5 adoptions” before “for a State”; and

6 (B) by striking “means” and all that fol-  
7 lows and inserting “means, with respect to any  
8 fiscal year, the number of special needs adop-  
9 tions that are not older child adoptions in the  
10 State in fiscal year 2007.”; and

11 (3) in paragraph (5), by striking “means” and  
12 all that follows and inserting “means, with respect  
13 to any fiscal year, the number of older child adop-  
14 tions in the State in fiscal year 2007.”.

15 (e) 24-MONTH AVAILABILITY OF PAYMENTS TO  
16 STATES.—Section 473A(e) of such Act (42 U.S.C.  
17 673b(e)) is amended—

18 (1) in the subsection heading, by striking “2-  
19 YEAR” and inserting “24-MONTH”; and

20 (2) by striking “through the end of the suc-  
21 ceeding fiscal year” and inserting “for a period of  
22 24 months beginning with the month in which the  
23 payments are made”.

1 **SEC. 102. PROMOTION OF ADOPTION OF CHILDREN WITH**  
2 **SPECIAL NEEDS.**

3 (a) **ELIMINATION OF ELIGIBILITY BASED ON AFDC**  
4 **AND SSI INCOME STANDARDS.**—Section 473(a)(2) of the  
5 Social Security Act (42 U.S.C. 673(a)(2)) is amended—

6 (1) in subparagraph (A), by striking clauses (i)  
7 and (ii) and inserting the following:

8 “(i)(I) at the time of termination of parental  
9 rights was in the care of a public or licensed private  
10 child placement agency or Indian tribal organization  
11 pursuant to a voluntary placement agreement, relin-  
12 quishment, or involuntary removal of the child from  
13 the home, and the State has determined, pursuant  
14 to criteria established by the State (which may, but  
15 need not, include a judicial determination), that con-  
16 tinuation in the home would be contrary to the safe-  
17 ty or welfare of such child;

18 “(II) meets all medical or disability require-  
19 ments of title XVI with respect to eligibility for sup-  
20 plemental security income benefits; or

21 “(III) was residing in a foster family home or  
22 child care institution with the child’s minor parent,  
23 provided that the child’s minor parent was in such  
24 foster family home or child care institution pursuant  
25 to a voluntary placement agreement, relinquishment,  
26 or involuntary removal of the child from the home,

1 and the State has determined, pursuant to criteria  
2 established by the State (which may, but need not,  
3 include judicial determination), that continuation in  
4 the home would be contrary to the safety or welfare  
5 of such child; and

6 “(ii) has been determined by the State, pursu-  
7 ant to subsection (c), to be a child with special  
8 needs, which needs shall be considered by the State,  
9 together with the circumstances of the adopting par-  
10 ents, in determining the amount of any payments to  
11 be made to the adopting parents.”; and

12 (2) by striking subparagraph (C) and inserting  
13 the following:

14 “(C) A child who meets the requirements of subpara-  
15 graph (A), who was determined eligible for adoption as-  
16 sistance payments under this part with respect to a prior  
17 adoption (or who would have been determined eligible for  
18 such payments had the Adoption and Safe Families Act  
19 of 1997 been in effect at the time that such determination  
20 would have been made), and who is available for adoption  
21 because the prior adoption has been dissolved and the pa-  
22 rental rights of the adoptive parents have been terminated  
23 or because the child’s adoptive parents have died, shall be  
24 treated as meeting the requirements of this paragraph for  
25 purposes of paragraph (1)(B)(ii).”.

1 (b) EXCEPTION.—Section 473(a) of the Social Secu-  
2 rity Act (42 U.S.C. 673(a)) is amended by adding at the  
3 end the following:

4 “(7)(A) Notwithstanding any other provision of this  
5 subsection, no payment may be made to parents with re-  
6 spect to any child that—

7 (i) would be considered a child with special  
8 needs under subsection (c);

9 (ii) is not a citizen or resident of the United  
10 States; and

11 (iii) was adopted outside of the United States  
12 or was brought into the United States for the pur-  
13 pose of being adopted.

14 “(B) Subparagraph (A) shall not be construed as pro-  
15 hibiting payments under this part for a child described  
16 in subparagraph (A) that is placed in foster care subse-  
17 quent to the failure, as determined by the State, of the  
18 initial adoption of such child by the parents described in  
19 such subparagraph.”.

20 (c) REQUIREMENT FOR USE OF STATE SAVINGS.—  
21 Section 473(a) of the Social Security Act (42 U.S.C.  
22 673(a)), as amended by subsection (b), is amended by  
23 adding at the end the following:

24 “(8) A State shall spend an amount equal to the  
25 amount of savings (if any) in State expenditures under

1 this part resulting from the application of paragraph (2)  
2 on and after the effective date of the amendments to such  
3 paragraph made by section 102(a) of the Improved Adop-  
4 tion Incentives and Relative Guardianship Support Act of  
5 2008 to provide to children or families any service (includ-  
6 ing post-adoption services) that may be provided under  
7 this part or part B.”.

8 (d) DETERMINATION OF A CHILD WITH SPECIAL  
9 NEEDS.—Section 473(c) of the Social Security Act (42  
10 U.S.C. 673(c)) is amended to read as follows:

11 “(c) For purposes of this section, a child shall not  
12 be considered a child with special needs unless—

13 “(1) the State has determined, pursuant to a  
14 criteria established by the State (which may or may  
15 not include a judicial determination), that the child  
16 cannot or should not be returned to the home of his  
17 parents; and

18 “(2) the State has determined—

19 “(A) that there exists with respect to the  
20 child a specific factor or condition (such as eth-  
21 nic background, age, or membership in a minor-  
22 ity or sibling group, or the presence of factors  
23 such as medical conditions or physical, mental,  
24 or emotional handicaps) because of which it is  
25 reasonable to conclude that the child cannot be

1 placed with adoptive parents without providing  
2 adoption assistance under this section and med-  
3 ical assistance under title XIX; and

4 “(B) that except where it would be against  
5 the best interests of the child because of such  
6 factors as the existence of significant emotional  
7 ties with prospective adoptive parents while in  
8 the care of such parents as a foster child, a rea-  
9 sonable, but unsuccessful, effort has been made  
10 to place the child with appropriate adoptive  
11 parents without providing adoption assistance  
12 under this section or medical assistance under  
13 title XIX.

14 A child who meets all medical or disability require-  
15 ments of title XVI with respect to eligibility for sup-  
16 plemental security income benefits shall be deemed  
17 to be a child for whom the determination required  
18 by subparagraph (A) of paragraph (2) has been  
19 made.”.

20 (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on October 1, 2008, and shall  
22 apply to adoption assistance agreements executed on or  
23 after that date.

1           **TITLE II—SUPPORT FOR**  
 2           **RELATIVE GUARDIANSHIPS**

3   **SEC. 201. RELATIVE GUARDIANSHIP ASSISTANCE PAY-**  
 4           **MENTS FOR CHILDREN.**

5           (a) OPTION FOR STATES TO ENHANCE AND SUB-  
 6   SIDIZE A RELATIVE GUARDIANSHIP PROGRAM.—

7           (1) STATE PLAN AMENDMENT.—Section  
 8   471(a)(1) of the Social Security Act (42 U.S.C.  
 9   671(a)(1)) is amended—

10                   (A) by inserting “(A)” after “provides”;

11                   (B) by adding “and” after the semicolon;

12                   and

13                   (C) by adding at the end the following:

14                   “(B) at the option of the State, provides for rel-  
 15   ative guardianship assistance payments in accord-  
 16   ance with subsection (d) of section 473;”.

17           (b) REQUIREMENTS.—Section 473 of such Act (42  
 18   U.S.C. 673) is amended by adding at the end the fol-  
 19   lowing:

20                   “(d) RELATIVE GUARDIANSHIP ASSISTANCE PAY-  
 21   MENTS FOR CHILDREN.—

22                   “(1) RELATIVE GUARDIANSHIP ASSISTANCE  
 23   AGREEMENT.—

1           “(A) IN GENERAL.—In order to receive  
2 payments under section 474(a)(5), a State  
3 shall—

4           “(i) negotiate and enter into a writ-  
5 ten, binding relative guardianship assist-  
6 ance agreement with the relative guardian  
7 of a child who meets the requirements of  
8 paragraph (3)(B);

9           “(ii) provide the relative guardian  
10 with a copy of the agreement; and

11           “(iii) certify that any child on whose  
12 behalf relative guardianship assistance  
13 payments are made under the agreement  
14 shall be provided medical assistance under  
15 title XIX in accordance with section  
16 1902(a)(10)(A)(i)(I).

17           “(B) MINIMUM REQUIREMENTS.—The  
18 agreement shall specify, at a minimum—

19           “(i) the amount of, and manner in  
20 which, each relative guardianship assist-  
21 ance payment will be provided under the  
22 agreement;

23           “(ii) the additional services and assist-  
24 ance that the child and relative guardian  
25 will be eligible for under the agreement;

1           “(iii) the procedure by which the rel-  
2           ative guardian may apply for additional  
3           services as needed, provided the agency  
4           and relative guardian agree on the addi-  
5           tional services as specified in the agree-  
6           ment; and

7           “(iv) that the State will pay up to  
8           \$2,000 of nonrecurring expenses associated  
9           with obtaining legal guardianship of the  
10          child.

11          “(C) INTERSTATE APPLICATION.—The  
12          agreement shall provide that the agreement  
13          shall remain in effect without regard to the  
14          State residency of the relative guardian.

15          “(D) FEDERAL REIMBURSEMENT OF NON-  
16          RECURRING EXPENSES.—A State’s payment of  
17          nonrecurring guardianship expenses under a  
18          relative guardianship assistance agreement in  
19          accordance with subparagraph (B)(iv) shall be  
20          treated as a direct expenditure made for the  
21          proper and efficient administration of the State  
22          plan for purposes of section 474(a)(3)(E).

23          “(2) RELATIVE GUARDIANSHIP ASSISTANCE  
24          PAYMENT.—

1           “(A) IN GENERAL.—Subject to subpara-  
2           graphs (B) and (C), the relative guardianship  
3           assistance payment shall be based on consider-  
4           ation of the circumstances of the relative guard-  
5           ian and the needs of the child.

6           “(B) MINIMUM AND MAXIMUM PAY-  
7           MENT.—A relative guardianship assistance pay-  
8           ment shall not be less than the adoption assist-  
9           ance payment the State would have made on  
10          behalf of the child under an adoption assistance  
11          agreement entered into under subsection (a)  
12          and shall not exceed the foster care mainte-  
13          nance payment which would have been paid if  
14          the child had remained in a foster family home.

15          “(C) PERIODIC ADJUSTMENTS.—A relative  
16          guardianship assistance payment may be read-  
17          justed periodically, with the concurrence of the  
18          relative guardian (which may be specified in the  
19          relative guardianship assistance agreement), de-  
20          pending upon changes in the circumstances of  
21          the relative guardian and the needs of the child.

22          “(D) LIMITATION.—No relative guardian-  
23          ship assistance payment may be made to a rel-  
24          ative guardian for any child who has attained  
25          18 years of age.

1           “(3) CHILD’S ELIGIBILITY FOR A RELATIVE  
2           GUARDIANSHIP ASSISTANCE PAYMENT.—

3           “(A) IN GENERAL.—A child is eligible for  
4           a relative guardianship assistance payment  
5           under this subsection if the State agency deter-  
6           mines the following:

7                   “(i) The child—

8                           “(I) has been removed from his  
9                           or her home pursuant to a voluntary  
10                           placement agreement or as a result of  
11                           a judicial determination to the effect  
12                           that continuation in the home would  
13                           be contrary to the welfare of the child;  
14                           and

15                           “(II) in the month prior to the  
16                           establishment of the legal guardian-  
17                           ship, is eligible for foster care mainte-  
18                           nance payments under section 472.

19                           “(ii) Being returned home or adopted  
20                           are not appropriate permanency options  
21                           for the child.

22                           “(iii) The child demonstrates a strong  
23                           attachment to the relative guardian and  
24                           the relative guardian has a strong commit-  
25                           ment to caring permanently for the child.

1           “(iv) The relative guardian satisfies  
2           the requirements of subparagraph (B).

3           “(v) With respect to a child who has  
4           attained 14 years of age, the child has  
5           been consulted regarding the relative  
6           guardianship arrangement.

7           “(B) REQUIREMENTS FOR RELATIVE  
8           GUARDIANS.—A relative guardian satisfies the  
9           requirements of this subparagraph if the rel-  
10          ative—

11           “(i) is the grandparent or other rel-  
12           ative of a child on whose behalf relative  
13           guardianship assistance payments are to  
14           be made;

15           “(ii) has satisfied the background  
16           checks required under section 471(a)(20);

17           “(iii) has met the State’s require-  
18           ments established under section 471(a)(10)  
19           to be a foster family home; and

20           “(iv) assumes legal guardianship of  
21           such child and commits to caring for the  
22           child on a permanent basis.

23           “(C) TREATMENT OF SIBLINGS.—With re-  
24           spect to a child described in subparagraph (A)  
25           whose sibling or siblings are not so described—

1           “(i) the child and any sibling of the  
2           child shall be placed in the same relative  
3           guardianship arrangement unless it can be  
4           demonstrated that it is inappropriate to do  
5           so; and

6           “(ii) relative guardianship assistance  
7           payments may be paid for the child and  
8           each sibling so placed.”.

9           (c) PAYMENTS TO STATES.—

10           (1) IN GENERAL.—Section 474(a) of such Act  
11           (42 U.S.C. 674(a)) is amended—

12           (A) in paragraph (3)(B), by striking “fos-  
13           ter or adoptive parents and the members of the  
14           staff of State-licensed or State-approved child  
15           care institutions providing care to foster and  
16           adopted children receiving assistance under this  
17           part, in ways that increase the ability of such  
18           current or prospective parents, staff members,  
19           and institutions to provide support and assist-  
20           ance to foster and adopted children,” and in-  
21           serting “foster parents, adoptive parents, or rel-  
22           ative guardians and the members of the staff of  
23           State-licensed or State-approved child care in-  
24           stitutions providing care to foster children,  
25           adoptive children, or children living with a rel-

1           ative guardian, who are receiving assistance  
 2           under this part, in ways that increase the abil-  
 3           ity of such current or prospective parents, rel-  
 4           ative guardians, staff members, and institutions  
 5           to provide support and assistance to foster chil-  
 6           dren, adoptive children, or children living with  
 7           a relative guardian,”;

8           (B) in paragraph (4)(B), by striking the  
 9           period at the end and inserting “; plus”; and

10          (C) by adding at the end the following:

11          “(5) an amount equal to the Federal medical  
 12          assistance percentage (as defined in section 1905(b))  
 13          of the total amount expended during such quarter as  
 14          relative guardianship assistance payments under sec-  
 15          tion 473(d) pursuant to relative guardianship assist-  
 16          ance agreements.”.

17          (2) INCENTIVE PAYMENTS FOR RELATIVE  
 18          GUARDIANSHIP PLACEMENT.—

19          (A) IN GENERAL.—Section 473A of the  
 20          Social Security Act (42 U.S.C. 673b) is amend-  
 21          ed by adding at the end the following:

22          “(j) INCENTIVE PAYMENTS FOR RELATIVE GUARD-  
 23          IANSHIP PLACEMENTS.—

24          “(1) USE OF UNAWARDED ADOPTION INCEN-  
 25          TIVE FUNDS TO MAKE RELATIVE GUARDIANSHIP IN-

1 CENTIVE PAYMENTS.—If in any fiscal year the total  
2 amount of adoption incentive payments payable  
3 under subsection (d) are less than the amount ap-  
4 propriated under subsection (h) for the fiscal year,  
5 States that have established a relative guardianship  
6 assistance program under section 471(a)(1)(B) shall  
7 be awarded, in addition to any adoption incentive  
8 payments made to such States under subsection (d),  
9 relative guardianship incentive payments from the  
10 portion of such amount that is in excess of the total  
11 amount of adoption incentive payments to be made  
12 under such subsection for such fiscal year.

13 “(2) PAYMENT AMOUNT.—Subject to paragraph  
14 (3), the relative guardianship incentive payment pay-  
15 able to a State for a fiscal year under this sub-  
16 section shall be equal to—

17 “(A) in the case of the first fiscal year in  
18 which the State establishes a relative guardian-  
19 ship assistance program under section  
20 471(a)(1)(B), the product of \$1,000 and the  
21 number of relative guardianship assistance  
22 agreements entered into under section 473(d)  
23 in the State during that fiscal year; and

24 “(B) in the case of any succeeding fiscal  
25 year, the product of \$1,000 and the amount (if

1 any) by which the number of relative guardian-  
2 ship assistance agreements entered into under  
3 section 473(d) in the State for the fiscal year  
4 exceed the base number of relative guardianship  
5 assistance agreements in the State for the fiscal  
6 year.

7 “(3) PRO RATA ADJUSTMENT IF INSUFFICIENT  
8 FUNDS AVAILABLE.—For any fiscal year, if the total  
9 amount of relative guardianship incentive payments  
10 otherwise payable under this subsection for a fiscal  
11 year exceeds the amount available for such payments  
12 for the fiscal year, the amount of the relative guard-  
13 ianship incentive payment payable to each State  
14 under this subsection for the fiscal year shall be—

15 “(A) the amount of the relative guardian-  
16 ship incentive payment that would otherwise be  
17 payable to the State under this subsection for  
18 the fiscal year; multiplied by

19 “(B) the percentage represented by the  
20 amount so available for the fiscal year, divided  
21 by the total amount of relative guardianship in-  
22 centive payments otherwise payable under this  
23 section for the fiscal year.”.

24 (B) DEFINITION OF BASE NUMBER OF  
25 RELATIVE GUARDIANSHIP ASSISTANCE AGREE-

1           MENTS.—Subsection (g) of section 473A of  
 2           such Act (42 U.S.C. 673b), as amended by sec-  
 3           tion 101(b)(2), is amended by adding at the  
 4           end the following:

5           “(9) BASE NUMBER OF RELATIVE GUARDIAN-  
 6           SHIP ASSISTANCE AGREEMENTS.—The term ‘base  
 7           number of relative guardianship assistance agree-  
 8           ments’ means, with respect to a fiscal year, the  
 9           number of relative guardianship assistance agree-  
 10          ments entered into under section 473(d) in the State  
 11          in the fiscal year for which the number is the great-  
 12          est in the period that begins with the first fiscal year  
 13          in which the State establishes a relative guardian-  
 14          ship assistance program under section 471(a)(1)(B)  
 15          and ends with the preceding fiscal year.”.

16           (C) CONFORMING AMENDMENT.—Sub-  
 17          section (f) of section 473A of such Act (42  
 18          U.S.C. 673b) is amended by inserting “and rel-  
 19          ative navigator and support services” after  
 20          “post-adoption services”.

21          (d) MAINTAINING ELIGIBILITY FOR ADOPTION AS-  
 22          SISTANCE PROGRAM.—Section 473(a) of the Social Secu-  
 23          rity Act (42 U.S.C. 673(a)), as amended by subsections  
 24          (b) and (c) of section 102, is amended by adding at the  
 25          end the following:

1       “(9) A child on whose behalf relative guardianship  
 2 assistance payments have been made under section 473(d)  
 3 and who pursuant to subsection (c) has been determined  
 4 to be a child with special needs, shall be eligible for adop-  
 5 tion assistance as if no relative guardianship agreement  
 6 or payments had been made. The State shall make pay-  
 7 ments of nonrecurring adoption expenses under this sec-  
 8 tion to the adoptive parents of such a child.”.

9       (e) ELIGIBILITY FOR INDEPENDENT LIVING SERV-  
 10 ICES AND EDUCATION AND TRAINING VOUCHERS FOR  
 11 CHILDREN WHO EXIT FOSTER CARE FOR RELATIVE  
 12 GUARDIANSHIP OR ADOPTION AFTER AGE 16.—

13           (1) INDEPENDENT LIVING SERVICES.—Section  
 14 477(a) of such Act (42 U.S.C. 677(a)) is amended—

15           (A) by striking “and” at the end of para-  
 16 graph (5);

17           (B) by striking the period at the end of  
 18 paragraph (6) and inserting “; and”; and

19           (C) by adding at the end the following:

20           “(7) to provide the services referred to in this  
 21 subsection to children who, after attaining 16 years  
 22 of age, have left foster care for relative guardianship  
 23 or adoption.”.

24           (2) EDUCATION AND TRAINING VOUCHERS.—

25           Section 477(i)(2) of such Act (42 U.S.C. 677(i)(2))

1 is amended by striking “from foster care after at-  
2 taining age 16” and inserting “or entering relative  
3 guardianship from foster care after attaining 16  
4 years of age”.

5 (f) NOTICE REQUIREMENTS.—

6 (1) IV-E STATE PLAN REQUIREMENTS.—

7 (A) NOTICE TO RELATIVES.—Section  
8 471(a)(19) of such Act (42 U.S.C. 671(a)(19))  
9 is amended—

10 (i) by striking “that the State” and  
11 inserting “that—  
12 “(A) the State”; and

13 (ii) by adding at the end the fol-  
14 lowing:

15 “(B) within 60 days of the removal of the  
16 child from the custody of the child’s parent or  
17 parents, the State shall exercise due diligence to  
18 identify and provide notice to all adult grand-  
19 parents and other adult relatives of the child  
20 (including any other adult relatives suggested  
21 by the parents), subject to exceptions due to  
22 family or domestic violence, that—

23 “(i) specifies that the child has been  
24 or is being removed from the custody of  
25 the child’s parent or parents;

1           “(ii) explains the options the relative  
2           has under Federal, State, and local law to  
3           participate in the child’s care and place-  
4           ment, including any options that may be  
5           lost by failing to respond to the notice;

6           “(iii) describes the requirements  
7           under section 471(a)(10) to become a fos-  
8           ter family home and the additional services  
9           and supports that are available for children  
10          placed in such a home; and

11          “(iv) if the State has elected the op-  
12          tion to make relative guardianship assist-  
13          ance payments under paragraph (1)(B),  
14          describes how the relative may enter into  
15          an agreement with the State under section  
16          473(d) to receive such payments; and

17          “(C) with respect to any minor child (ex-  
18          cluding minor heads of households and their  
19          spouses) receiving assistance under the State  
20          program funded under part A (or under a State  
21          program funded with qualified State expendi-  
22          tures (as defined in section 409(a)(7)(B)(i)))  
23          who is in the care of a nonparent caretaker rel-  
24          ative as a result of interaction with the State  
25          agency responsible for administering the pro-

1 gram authorized under this part, and who does  
2 not have a parent in the home, the State shall  
3 provide the nonparent caretaker relative with  
4 notice that—

5 “(i) explains the options the relative  
6 has under Federal, State, and local law to  
7 participate in the child’s care and place-  
8 ment, including any options that may be  
9 lost by failing to respond to the notice;

10 “(ii) describes the requirements under  
11 section 471(a)(10) to become a foster fam-  
12 ily home and the additional services and  
13 supports that are available for children  
14 placed in such a home; and

15 “(iii) if the State has elected the op-  
16 tion to make relative guardianship assist-  
17 ance payments under paragraph (1)(B),  
18 describes how the relative may enter into  
19 an agreement under section 473(d) with  
20 the State to receive such payments;”.

21 (B) INFORMATION ON ADOPTION TAX  
22 CREDIT.—Section 471(a) of such Act (42  
23 U.S.C. 671(a)) is amended—

24 (i) by striking “and” at the end of  
25 paragraph (26);

1 (ii) by striking the period at the end  
2 of paragraph (27) and inserting “; and”;  
3 and

4 (iii) by adding at the end the fol-  
5 lowing:

6 “(28) provides that the State will inform any  
7 individual who is adopting, or whom the State is  
8 made aware is considering adopting, a child who is  
9 in foster care under the responsibility of the State  
10 of the potential eligibility of the individual for a  
11 Federal tax credit (under section 23 of the Internal  
12 Revenue Code) without the need to document any  
13 adoption-related expenses.”.

14 (2) TANF PENALTY FOR FAILURE TO PROVIDE  
15 NOTICE.—Section 409(a) of such Act (42 U.S.C.  
16 609(a)) is amended by adding at the end the fol-  
17 lowing:

18 “(16) PENALTY FOR NONCOMPLIANCE WITH  
19 NOTICE REQUIREMENTS FOR RELATIVES UNDER  
20 PART E.—

21 “(A) IN GENERAL.—If the Secretary deter-  
22 mines that a State to which a grant is made  
23 under section 403 in a fiscal year has not exer-  
24 cised the due diligence required under section  
25 471(a)(19)(C) during the fiscal year, the Sec-

1           retary shall reduce the grant payable to the  
2           State under section 403(a)(1) for the imme-  
3           diately succeeding fiscal year by an amount  
4           equal to not less than 1 percent and not more  
5           than 5 percent of the State family assistance  
6           grant.

7           “(B) PENALTY BASED ON SEVERITY OF  
8           FAILURE.—The Secretary shall impose reduc-  
9           tions under subparagraph (A) with respect to a  
10          fiscal year based on the degree of noncompli-  
11          ance.”.

12          (g) CASE PLAN REQUIREMENTS.—Section 475(1) of  
13          such Act (42 U.S.C. 675(1)) is amended by adding at the  
14          end the following:

15                 “(F) In the case of a child with respect to  
16                 whom the permanency plan is placement with a  
17                 relative and receipt of relative guardianship as-  
18                 sistance payments under section 473(d), a de-  
19                 scription of—

20                         “(i) the steps that the agency has  
21                         taken to determine that it is not appro-  
22                         priate for the child to be returned home or  
23                         adopted;

24                         “(ii) the reasons why a permanent  
25                         placement with a fit and willing relative

1 through a relative guardianship assistance  
2 arrangement is in the child’s best interests;

3 “(iii) the ways in which the child  
4 meets the eligibility requirements for a rel-  
5 ative guardianship assistance payment;

6 “(iv) the efforts the agency has made  
7 to discuss adoption by the child’s relative  
8 guardian who is to receive such payments  
9 as a more permanent alternative to legal  
10 guardianship and, in the case of such a rel-  
11 ative guardian who has chosen not to pur-  
12 sue adoption, documentation of the reasons  
13 therefor; and

14 “(v) the efforts made by the State  
15 agency to secure the consent of the child’s  
16 parent or parents to the relative guardian-  
17 ship assistance arrangement, or the rea-  
18 sons why the efforts were not made.”.

19 (h) REQUIREMENT TO CONDUCT CRIMINAL  
20 RECORDS AND CHILD ABUSE AND NEGLECT REGISTRY  
21 CHECKS.—Section 471(a)(20) of such Act (42 U.S.C.  
22 671(a)(20)) is amended—

23 (1) in subparagraph (A), in the matter pre-  
24 ceding clause (i) by striking “foster or adoptive par-  
25 ent before the foster or adoptive parent may be fi-

1 nally approved for placement of a child on whose be-  
2 half foster care maintenance payments or adoption  
3 assistance payments” and inserting “foster parent,  
4 adoptive parent, or relative guardian before the fos-  
5 ter parent, adoptive parent, or relative guardian may  
6 be finally approved for placement of a child on  
7 whose behalf foster care maintenance payments,  
8 adoption assistance payments, or relative guardian-  
9 ship assistance payments”; and

10 (2) in subparagraph (B)(i) (as redesignated by  
11 section 152(b)(2) of Public Law 109–248), by strik-  
12 ing “prospective foster or adoptive parent and on  
13 any other adult living in the home” and all that fol-  
14 lows through “adoption assistance payments” and  
15 inserting “prospective foster parent, adoptive parent,  
16 or relative guardian and on any other adult living in  
17 the home of such a prospective parent or relative  
18 guardian, and request any other State in which any  
19 such prospective parent, relative guardian, or other  
20 adult has resided in the preceding 5 years, to enable  
21 the State to check any child abuse and neglect reg-  
22 istry maintained by such other State for such infor-  
23 mation, before the prospective foster parent, adop-  
24 tive parent, or relative may be finally approved for  
25 placement of a child, regardless of whether foster

1 care maintenance payments, adoption assistance  
 2 payments, or relative guardianship assistance pay-  
 3 ments”.

4 (i) EFFECTIVE DATE.—The amendments made by  
 5 this section shall take effect on October 1, 2008, and shall  
 6 apply to relative guardianship agreements executed on or  
 7 after that date.

## 8 **TITLE III—MISCELLANEOUS**

### 9 **SEC. 301. AUTHORITY FOR COMPARISONS AND DISCLO-** 10 **SURES OF INFORMATION IN THE FEDERAL** 11 **PARENT LOCATOR SERVICE FOR CHILD WEL-** 12 **FARE, FOSTER CARE, AND ADOPTION ASSIST-** 13 **ANCE PROGRAM PURPOSES.**

14 Section 453(j)(3) of such Act (42 U.S.C. 653(j)(3))  
 15 is amended, in the matter preceding subparagraph (A),  
 16 by inserting “, part B, part E,” after “this part”.

○