



# Office of Children and Family Services

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## Informational Letter

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<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development
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<b>Subject:</b>	<b>Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Welfare Supervisors Legal Staff Planning Coordinators Staff Development Coordinators
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**Filing References**

<b>Previous ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Dept. Regs.</b>	<b>Soc. Serv. Law &amp; Other Legal Ref.</b>	<b>Manual Ref.</b>	<b>Misc. Ref.</b>
15-OCFS-ADM-01  15 OCFS-ADM-02			22 U.S.C. §7102  42 U.S.C. §§671 – 679b		Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)  ACYF-CB-IM-14-03; ACYF-CB-PI-14-06

**I. Purpose**

The purpose of this Informational Letter (INF) is to notify Local Departments of Social Services (LDSSs) and Voluntary Authorized Agencies (VAs) of the federal Preventing Sex Trafficking and Strengthening Families Act (the Act) [P.L. 113-183], and to outline the key provisions that impact child welfare.

**II. Background**

On September 29, 2014, President Obama signed the Act [P.L. 113-183] into law, which amended various provisions of Title IV-E of the Social Security Act (SSA). The Act has two primary purposes - to protect and prevent at-risk children and youth from becoming victims of sex trafficking, and to improve the safety, permanency, and well-being outcomes of children and youth involved with the child welfare system.

The New York State Office of Children and Family Services (OCFS) has reviewed the provisions of the Act and has engaged partners throughout the state, including LDSSs and other state agencies, to implement a comprehensive plan that adheres to the time frames identified by the Act. Included in the program implications section below is a list of the Act’s key provisions, as well as the associated deadlines. This release reflects guidance received to date from the federal Department of Health and Human Services (DHHS), Administration on Children, Youth and Families (ACYF). OCFS expects to receive additional guidance from ACYF and will address such guidance in subsequent releases.

Governor Cuomo recently signed into law changes needed for New York to meet SSA Title IV-E requirements imposed by the Act<sup>1</sup>. These changes include provisions to:

- Authorize the Kinship Guardianship Assistance Program (KinGAP) payments to a successor guardian if the KinGAP relative guardian dies or is incapacitated;
- Delete references to the former foster care permanency goal and plan of “independent living”;

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<sup>1</sup> Part L of Chapter 56 of the Laws of 2015.

- Reduce the age at which permanency hearings must address whether a child in foster care is receiving services to help transition to independent living from 16 to 14 years of age;
- Increase the minimum age for a child in foster care to have the permanency goal of another planned permanent living arrangement (APPLA) from 14 to 16;
- Implement changes to what must occur and be documented at permanency hearings for youth who have a goal of APPLA;
- Authorize OCFS and LDSSs to be able to obtain a certified copy or transcript of a birth certificate for a child in foster care in its care and custody or custody and guardianship without a fee; and
- Allow a missing child report to be made to the National Crime Information Center (NCIC) database for any youth under the age of 21 who is placed with or under the supervision of OCFS or an LDSS, is named in a CPS investigation, is receiving Chafee services, or has run away from foster care.

This INF serves as an introduction to the Act and its impact on child welfare.

### **III. Program Implications**

The Act is divided into two major areas that pertain to child welfare – (1) protecting children and youth at risk of sex trafficking and (2) improving adoption incentives and extending family connection grants. The preventing sex trafficking provisions apply to a broad range of systems and populations; however, given that children and youth involved with the child welfare system are at high risk of being victims of sex trafficking, the sections of the Act to prevent sex trafficking and support those who are victims of it significantly impact the child welfare system.

There is limited information available on the prevalence of sex trafficking, characteristics of those who become victims, and how the needs of those who are identified as victims are addressed. As part of a national effort to better understand sex trafficking and those who may be victims of it, the Act requires that policies, procedures, and tools for identification, documentation, and response to child victims of sex trafficking, or those at risk of becoming victims, be developed and data on victims be collected. In addition, the Act requires development of procedures for locating children and youth who run away from foster care and that data be collected on their experience when absent from care. The Act outlines general information that must be obtained. This includes the primary factors that contribute to the child running away or being absent from care; efforts for addressing their needs once identified as a victim; and characteristics of children who run away, potential factors associated with children who run away, their experience while absent from care, and trends on the number of runaways. OCFS is awaiting guidance from ACYF on the exact data elements that are to be gathered and will share this information once available.

In addition, the Act seeks to advance the safety, permanency, and well-being of children and youth by improving opportunities and supporting permanency for children and youth involved with the child welfare system. One such improvement to promote permanency is raising the age in which a child is eligible for the permanency goal of APPLA to 16 years of age and older. In addition, there are several other key provisions, including the support of normative experiences for children and youth in foster care through the enactment of the reasonable and prudent parent standard. Normative experiences available through the reasonable and prudent parent standard are age and developmentally appropriate

activities children and youth participate in to develop critical life skills. In supporting children and youth to engage in normative experiences, there is an opportunity for the child to build and enhance his/her capacity to exercise independent, age-appropriate decision making; manage daily life stressors, and cope with past adversities and trauma; envision positive future possibilities; and seek help when needed. In order to promote normative experiences, the Act requires that a caregiver<sup>2</sup> be empowered to exercise the reasonable and prudent parent standard in decisions pertaining to the child's daily activities. Understanding the intricacies that will be involved in implementing this provision, OCFS is awaiting further guidance from ACYF for applying the reasonable and prudent parent standard.

The other major area of the Act that impacts child welfare, improving adoption and guardianship incentives, and extending the family connection grants, includes provisions that support the permanency of children and youth in foster care. These include expansion of the notification requirements to include parents with legal custody of the sibling(s) of a child who is at risk of removal or has been removed from the child's home; a definition of siblings; an extension of the adoption incentive payment program to include guardianship; and changes to KinGAP to authorize continuation of payments to a successor guardian when the KinGAP relative guardian dies or is incapacitated.

The above information provides a brief overview as to the Act's child welfare provisions impacting states and localities. Below is a list of the provisions grouped by topic area and includes the populations for which each requirement applies.

### **Protecting Children and Youth at Risk of Sex Trafficking:**

#### **Identifying, Documenting, and Determining Services for Children and Youth at Risk of Sex Trafficking (P.L. 113-183, Sections 101, 102):**

##### By September 29, 2015:

- Develop a set of policies and procedures (including relevant training) for identifying, documenting, and determining appropriate services for children for whom an LDSS or the state has responsibility for care, placement or supervision where there is reason to believe the child is, or is at risk of being, a sex trafficking victim.

##### By September 29, 2016:

- States must demonstrate implementation of the above-named policies and procedures.
- Children who have been identified as sex trafficking victims must be reported to law enforcement immediately and no later than 24 hours following identification.

Population Impacted: Children and youth over whom the state (or LDSS) has responsibility for placement, care, or supervision and for whom there is reasonable cause to believe the child or youth is, or is at risk of being, a sex trafficking victim.

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<sup>2</sup> The Preventing Sex Trafficking and Strengthening Families Act [P.L. 113-183] defines caregiver as "a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed." For the purpose of this definition and release, a "child care institution" in New York includes all levels of child care facilities (institution, group residence, group home and agency operated boarding home).

- Including cases where there is an open child welfare case but no removal (child protective or preventive);
- Children who have run away from foster care but are not yet 21; and
- Children who are receiving Chafee Act services.

Definition of Sex Trafficking Victim: For the purposes of the Act, the term “sex trafficking victim” is defined by federal law as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”<sup>3</sup> The federal definition of “severe forms of trafficking in persons” includes “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.”<sup>4</sup>

**Reporting Instances of Sex Trafficking (P.L. 113-183, Section 102):**

By September 29, 2017:

- States must report the total number of sex trafficked victims to the DHHS.

**Including Sex Trafficking Data in the Adoption and Foster Care Analysis and Reporting System (AFCARS) (P.L. 113-183, Section 103):**

Effective September 29, 2014:

- States must report in AFCARS the annual number of children in foster care who are identified as sex trafficking victims. This includes children who become sex trafficking victims before entering foster care as well as children who become sex trafficking victims while in foster care.

**Locating and Responding to Children Who Run Away from Foster Care (P.L. 113-183, Section 104):**

By September 29, 2015:

- States must develop and implement specific protocols for:
  - Expeditiously locating any child missing from foster care;
  - Determining the primary factors that contributed to the child’s running away or otherwise being absent from care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements; and
  - Determining the child’s experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim.

Population Impacted by this Provision: The provision above pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the NYC Administration for Children’s Services (ACS) Commissioner’s custody (Close to Home) or in OCFS custody.

By September 29, 2016:

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<sup>3</sup> P.L. 113-183, Section 101(b), referencing the Trafficking Victims Protection Act of 2000 [22 U.S.C. §7102(10)].

<sup>4</sup> P.L. 113-183, Section 101(b), referencing the Trafficking Victims Protection Act of 2000 [22 U.S.C. §7102(9)(A)].

- No later than 24 hours after receiving information on missing or abducted children or youth, the child or youth must be reported to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database and to the National Center for Missing and Exploited Children (NMEC).

Population Impacted by these Provisions: The provisions listed above pertain to children and youth over whom the state (or LDSS) has responsibility for placement, care, or supervision and for whom there is reasonable cause to believe the child or youth is, or is at risk of being, a sex trafficking victim. This population includes:

- Cases where there is an open child welfare case but no removal (child protective and preventive);
- Children who have run away from foster care but are not yet 21; and
- Children who are receiving Chafee Act services.

**Increasing Information on Children in Foster Care to Prevent Sex Trafficking (P.L. 113-183, Section 105):**

By September 29, 2016:

- States must provide the following information to DHHS for an annual federal report:
  - Characteristics of children who run away from foster care.
  - Potential factors associated with children running away from foster care.
  - Information on children’s experiences while absent from care.
  - Trends in the number of children reported as runaways in each fiscal year.
- DHHS must report to Congress on efforts to ensure that children in foster care form and maintain long-lasting connections to caring adults, even when a child in foster care must move to another foster family home or when the child is placed under the supervision of a new caseworker.

**Supporting Normalcy for Children in Foster Care (P.L. 113-183, Section 111):**

By September 29, 2015:

- Foster parents must be provided knowledge and skills relating to the “reasonable and prudent parent standard” for the participation of the foster child in “age or developmentally appropriate” activities. Additionally, each congregate care facility under contract with an LDSS must have at least one individual trained and designated to apply the reasonable and prudent parenting standard for foster children residing at the facility.
- States must have policies for foster parents and child care facilities under contract with LDSSs applying the reasonable and prudent parent standard addressing appropriate caregiver liability when approving an activity for a foster child.
- The Act authorizes use of Chafee funds for youth to engage in age and developmentally appropriate activities.

- DHHS is required to provide the states with best practices for devising strategies to assist foster parents in applying the reasonable and prudent parent standard.

Definition of Reasonable and Prudent Parenting: “the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of a state [or LDSS in NY] to participate in extracurricular, enrichment, cultural, and social activities.” [P.L. 113-183, section 111]

Population Impacted by this Provision: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner’s custody (Close To Home), or in OCFS custody.

**Improving Another Planned Permanent Living Arrangement (APPLA) as a Permanency Option (P.L. 113-183, Section 112):**

By September 29, 2015:

- APPLA must be eliminated for foster care youth under the age of 16.
- Each permanency hearing must document the intensive, ongoing, unsuccessful efforts made to return the child home or place the child with a fit and willing relative, legal guardian, or adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the child.
- At each service plan review, there must be a discussion of the steps taken to see that the child’s foster parents or child care facility are following the reasonable and prudent parent standard and to ascertain whether the foster child has regular and ongoing opportunities to engage in age or developmentally appropriate activities.
- At each permanency hearing:
  - The child must be asked about the desired permanency outcome for the child.
  - There must be a judicial determination explaining why APPLA is the best permanency plan for the child and why it is not in the child’s best interests to:
    - Return home; or
    - Be placed for adoption, with a legal guardian or with a fit and willing relative.
  - That the child’s foster family or child care facility is following the reasonable and prudent parenting standard.
  - That the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities.

Population Impacted by this Section: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner’s custody (Close to Home), or in OCFS custody, who are age 16 or older and have a goal of APPLA.

**Empowering Foster Children Age 14 and Older in the Development of Their Case Plan and Transition Planning for a Successful Adulthood (P.L. 113-183, Section 113):**

By September 29, 2015:

- Case plans and transition plans must be developed in consultation with a foster child who is 14 years of age or older, and, at the option of the child, up to two members that the child selects, excluding the child's foster parent, case manager, case planner and caseworker.
  - One member can advocate for the child with respect to the reasonable and prudent parenting standard.
  - The LDSS may reject the person selected by the child where the LDSS has good cause to believe that the person would not act in the best interests of the child.
- Case plans for children 14 years of age or older (from the current standard of 16 years and older) must contain a written description of the programs and services that will enable the child to transition from foster care to successful adulthood.
- Case plans for children age 14 years or older must include a document that describes the child's:
  - Education, health, visitation, and court participation rights;
  - Right to stay safe and avoid exploitation; and
  - Right to receive a credit report annually.
- The case plan must include a signed acknowledgement that the child was provided with the information on the child's rights, including an explanation of these rights in an age-appropriate way.
- Children age 14 or older must be provided a copy of their credit reports annually and receive assistance in correcting any inaccuracies (this was changed from age 16 and older to age 14 and older).

Population Impacted by this Section: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner's custody (Close to Home), or in OCFS custody, who are age 14 or older.

**Ensuring Foster Children Have a Birth Certificate, Social Security Card, Health Insurance Information, Medical Records, and a Driver's License or State-Issued Identification Card (P.L. 113-183, Section 114):**

By September 29, 2015:

- Youth exiting foster care at age 18 or older, who have been in foster care for at least six months, must be provided critical documentation, if eligible, including:
  - Official or certified copy of a U.S. birth certificate;
  - Social security card;
  - Medical records;
  - Health insurance information; and
  - State-issued ID card (or driver's license) issued in conformance with federal law.

Population Impacted by this Section: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner's custody (Close to Home), or in OCFS custody, who are 18 or older, have been in foster care for at least six months, and are exiting care.

**Information on Children in Foster Care in Annual Reports Using AFCARS Data (P.L. 113-183, Section 115):**

Federal FY 2016, then annually

- Provide information on children in foster care annually using AFCARS, including children who are:
  - Pregnant or parenting;
  - Placed in a child care facility (congregate care) or other non-foster family home setting. Including information on:
    - The number of children in such placements and their ages, and the number and ages of children who have a permanency plan of APPLA;
    - Their duration in such placement (including those who have an APPLA permanency plan);
    - The types of congregate care (including group home, residential program, etc.)
    - The number of foster children placed in each type of care;
    - Any clinically diagnosed special needs of such children; and
    - The extent of the specialized education, treatment, counseling, or other services provided in the congregate care placement setting.

Population Impacted by this Section: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner's custody (Close to Home), or in OCFS custody.

**Establishment of a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (P.L. 113-183, Section 121):**

By September 29, 2016:

- DHHS must establish and appoint a National Advisory Committee on the sex trafficking of children and youth in the United States to:
  - Advise on the practical and general policies on improving the national response to sex trafficking;
  - Advise on policies concerning the cooperation of federal, state, local, and tribal governments and stakeholder agencies to provide services; and
  - Develop best practices and recommendations for states.

**Extension of Adoption Incentives Program through Fiscal Year 2016 (P.L. 113-183, Section 201):**

Effective September 29, 2014:

- Extends Adoption Incentive Payment Program through federal FY 2016.

**Improvements to Adoption Incentive Award Structure (P.L. 113-183, Section 202):**

Effective October 1, 2014:

- Created new incentive categories and amended the formula for awards.
- Reported rates of Adoptions and Foster Guardianships will be used as the basis to award incentive payments at the following levels:
  - \$5,000 for improving the rate of foster child adoptions;
  - \$7,500 for improving the rate of pre-adolescent adoptions and foster child guardianships (ages 9-13);
  - \$10,000 for improving the rate of older child adoptions and older foster child guardianships (age 14 and older); and
  - \$4,000 for improving the rate of foster child guardianships.

**Re-Naming of Adoption Incentive Payment Program (P.L. 113-183, Section 203):**

Effective October 1, 2014:

- The “Adoption Incentive Payment” program is renamed the “Adoption and Legal Guardianship Incentive Payments” program.

**Limitation on Use of Incentive Payments (P.L. 113-183, Section 204):**

Effective October 1, 2014:

- Incentive payments must be used to supplement, and not supplant, any federal or non-federal funds for services provided under either Title IV-B or Title IV-E of the SSA.

**Increase in Period for Which Incentive Payments Are Available for Expenditures (P.L. 113-183, Section 205):**

Effective October 1, 2014:

- Allows states to spend the incentives over a 36-month period instead of a 24-month period.

**State Report on Calculation and Use of Savings Resulting from Phase-Out of Eligibility Requirements for Adoption Assistance; Requirement to Spend 30 Percent of Savings on Certain Services (P.L. 113-183, Section 206):**

Beginning October 1, 2014 and annually thereafter:

- States must:
  - Submit the methodology used to calculate savings incurred as a result of de-linking Title IV-E adoption assistance eligibility from the Aid to Families with Dependent Children eligibility requirements.
  - Report the amount of savings and how such savings were spent.
  - Spend no less than 30 percent of the delinking savings on post-adoption services, post-guardianship services, or services to support and sustain positive permanent outcomes for children who might otherwise enter foster care (at least 2/3 of the 30 percent must be spent on post-adoption or post-guardianship services).

**Preservation of Eligibility for Kinship Guardianship Assistance Payments with a Successor Guardian (P.L. 113-183, Section 207):**

Effective September 29, 2014:

- KinGAP assistance payments will be continued to a successor legal guardian upon the death or incapacity of the KinGAP relative guardian, provided the following criteria has been met:
  - The successor guardian is named in the original KinGAP Agreement or in an amendment to the original KinGAP Agreement,
  - The successor guardian has satisfactorily completed criminal and child abuse/maltreatment background checks, and
  - Guardianship is transferred by a court to the successor guardian.

Population Impacted by this Section: Children in a KinGAP arrangement where the KinGAP relative guardian has died or is incapacitated, a successor guardian has been granted guardianship by the courts, and the successor guardian was previously named in the original KinGAP Agreement or in an amendment to the KinGAP Agreement.

**Data Collection of Adoption and Legal Guardianship Disruption and Dissolution (P.L. 113-183, Section 208):**

Effective September 29, 2014:

- DHHS must promulgate regulations providing for the collection and analysis of data regarding children who enter foster care following an adoption or legal guardianship. This data may include:
  - Length of the prior adoption or legal guardianship;
  - The age of the child at the time of the prior adoption or legal guardianship;
  - The age at which the child subsequently entered foster care;
  - The type of agency involved in making the prior adoption or legal guardianship placement; and
  - Other factors.

Population Impacted by this Section: The population this section pertains to is children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner's custody (Close to Home), or in OCFS custody, who were previously adopted or in a legal guardianship.

**Encouraging the Placement of Children in Foster Care with Siblings (P.L. 113-183, Section 209):**

Effective September 29, 2014:

- Added notification requirements regarding a child removed from the home. Not only must all adult grandparents and other relatives of the child be notified of the child's removal, but also all parents of a sibling (or half-sibling) of the child, where such parent has legal custody of such sibling (or half-sibling).
- Added a definition of "sibling" for Title IV-E purposes.

Population Impacted by this Section: This section pertains to children in foster care, including youth in non-secure Title IV-E eligible placements in the ACS Commissioner's custody (Close to Home), or in OCFS custody.

The information contained above serves as an introduction to the Act. There are additional provisions required by the law; however, those are not included in this INF as they do not impact the child welfare work performed by the LDSSs and VAs. LDSSs and VAs are encouraged to read the entire law and become familiar with the applicable areas. Further guidance will be made available as OCFS continues to obtain additional information from ACYF.

LDSSs and VAs may refer to the [OCFS Strategic Planning and Policy Development webpage](http://ocfs.ny.gov/main/sppd/federal_acts.asp) ([http://ocfs.ny.gov/main/sppd/federal\\_acts.asp](http://ocfs.ny.gov/main/sppd/federal_acts.asp)) to access policies and tools related to the Act as they become available.

*/s/ Thomas R. Brooks*

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**Issued By:**

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