



**NATIONAL RESOURCE CENTER
FOR FOSTER CARE
& PERMANENCY PLANNING**

at the Hunter College
School of Social Work

INFORMATION PACKET: ASFA

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MAY 2002

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ADOPTION AND SAFE FAMILIES ACT OF 1997 (Public Law 105-89)

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In 1980, the Adoption Assistance and Child Welfare Act (AACWA) was enacted into law to combat the growing concern that a tremendous number of children were getting “lost” in the child welfare system. One of the primary goals of AACWA was to prevent the removal of children from their own homes and for children whose safety required removal, to work towards facilitating family reunification.

Due to continued problems in the child welfare system, Congress enacted the Adoption and Safe Families Act of 1997 (ASFA), an amendment to AACWA, which President Clinton signed into law on November 19, 1997. ASFA reflects a shift away from the philosophy of family preservation and family reunification set by AACWA and explicitly states that the paramount concern of all child protection efforts must be the health and safety of children, even if that means removing a child from his home.

The central goal of ASFA is to protect children and to place them in permanent homes at the earliest possible time. The law makes it possible to achieve this by setting meaningful time limits for child welfare decisions, by clarifying which family situations call for reasonable reunification efforts and which simply do not. ASFA specifies that permanency must be achieved in a timely manner, and identifies specific practices and procedures for achieving this objective. In addition, ASFA encourages states to make reasonable efforts to place a child for adoption or with a legal guardian and concurrently make reasonable efforts to preserve and reunify families.

Furthermore, in order to help thousands of children waiting in foster care move more quickly into safe and permanent homes, ASFA provides unprecedented financial incentives to states to increase the number of children adopted each year. Additionally, ASFA outlines the conditions under which a State must initiate a petition to terminate parental rights and move toward a selection of a qualified adoptive family. Opponents of ASFA believe that these provisions encourage adoption as a permanent solution in lieu of supporting and strengthening biological families and family preservation.

Lastly, ASFA holds each state accountable for meeting the requirements of the law and measures this by requiring the development of an annual report to Congress. This report examines the performance of states on each outcome measure with an explanation of the reasons for either high or low performance. The goal being to ensure that states are adhering to the law’s requirements.

A child’s right to protection is primary and must be safeguarded. With ASFA’s new requirements, the hope is that children will no longer remain within foster care for extended periods of time. ASFA makes it clear that good foster care provides important safe havens for our children, but it is by definition a temporary, not a permanent, setting.

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General Statistics

(The following statistics have been compiled from the websites listed in this packet as well as from the references and suggested readings list)

- The number of children adopted from foster care annually in this country has doubled in the last four years to over 48,000 children adopted last year. (<http://nafadopt.org/SupportOurCause.htm>).
- Passage of the Adoption and Safe Families Act of 1997 has promoted the adoption of nearly 100,000 children since its passage in November of 1997. (<http://nafadopt.org/AboutUs.htm>)
- 36,000 children were moved from foster care to permanent homes in 1998, an increase of about 5,000 over 1997. (Children's Services Report, 1999)
- Based on current AFCARS estimates released January 2000, there are approximately 520,000 children currently in foster care in the United States. Of these, 117,000 are eligible for adoption. (ACF, 2000)
- 2% of children awaiting permanent placements as of March 31, 1999 were less than one year old, 35% were 1-5 years, 37% were 6-10 years, 23% were 11-15 years, and 3% were 16-18 years old. (ACF, 2000).
- 52% of children waiting to be adopted are male, while 48% are female. (ACF, 2000)
- Approximately 64% of children waiting in foster care are of minority background; 32% are White. 51% of all foster children waiting for adoption are Black, 11% are Hispanic, 1% are American Indian, 1% are Asian/Pacific Islander, and 5% are unknown/unable to determine. (ACF, 2000).
- 78% of waiting children reside in a foster home (57% non-relative and 21% relative), 15% in a pre-adoptive home, 1% in trial home visits, 3% in group homes, 5% in institutions, and less than 1% are runaways or in supervised independent living. (ACF, 2000).
- Over half a million children are in foster care on any given day. Over 100,000 children in foster care are awaiting adoptive families, and, on average, these waiting children have been in foster care for more than three years. (<http://waysandmeans.house.gov/humres/106cong/2-17-00/2-17gold.htm>).
- The federal cost of foster care was almost \$3.1 billion in fiscal year 1995, and is expected to increase to almost \$4.8 billion in fiscal year 2001. (http://www.calib.com/naic/pubs/s_foster.htm).
- The Congressional Budget Office has estimated that ASFA legislation will save some \$34 million over five years. (Grimm, 1997).

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References and Suggested Readings

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Policies and Legislation
(The following information is compiled from Public Law 105-89)

- ASFA changes the time frame for making decisions regarding permanent placement. The law requires that states hold the child's first permanency hearing within 12 months after a child comes into state care, rather than 18 months that was stipulated under AACWA. And ASFA permits concurrent planning, an approach under which family reunification and adoption planning are pursued simultaneously, including reasonable efforts to place a child with a legal guardian.
- Under ASFA, "reasonable efforts" for reunification shall not be required if a court of competent jurisdiction has determined that one of the following exist: 1) the parent has subjected the child to "aggravated circumstances," as defined by the state, 2) the parent has committed murder or voluntary manslaughter of another of their children or committed a felony assault resulting in serious bodily injury, or 3) had their rights terminated with regard to a sibling of the child who is the subject of the proceeding.
- States are required to review their current caseloads of foster children and either file a petition to begin the process of terminating parental rights or document an exemption if adoption is inappropriate.
- Proceedings for termination of parental rights need to be initiated when one of the following is true: 1) a child has been in foster care for 15 of the most recent 22 months, 2) a court has determined a child to be an abandoned infant, or 3) the parent has attempted to murder one of his or her children, or has committed a felony assault that resulted in serious bodily injury to one of his or her children.
- There are three exceptions to the mandatory termination provision: 1) for children who are being cared for by relatives, 2) if the state agency has documented a compelling reason why termination is not in the child's best interest, or 3) if the parent(s) were not provided with services as part of the reasonable efforts required.
- Fiscal incentives are provided to states that increase the number of adoptions relative to prior years. These States will receive bonuses of \$4,000 for each safe adoption of a child in foster care, and \$2,000 for each adoption of a child with special needs.
- States are required to specify in their state plan what they will do to ensure children are connected with life long families. At a minimum, documentation must include child-specific recruitment efforts such as the use of state, regional and national adoption exchanges including electronic exchange systems.
- ASFA mandates that state plans contain assurances that the state will develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements. A state must not deny or delay the adoptive placement of a child when an approved family is available outside the relevant jurisdiction. States that violate this provision can incur financial penalties. ASFA also requires the Government Accounting

Office to examine inter-jurisdictional adoption procedures and policies and make recommendations as to how to facilitate timely and permanent adoptions of children across state and county jurisdictions.

- States are required to include criminal record checks of prospective foster and adoptive parents before the person is approved for placement of a child, and states are forbidden from approving or licensing applicants convicted of specific crimes.
- ASFA instructs HHS to financially assist states, local communities and the courts reach their targets for increased numbers of adoptions and alternative permanent placements for children in foster care.
- Up to 10 State child welfare demonstration projects will be authorized by HHS in each of FY 1998 through FY 2002. These projects will be designed to address: 1) delays to adoptive placements for children in foster care, 2) parental substance abuse problems, and 3) kinship care.
- Health insurance will be provided for children with special needs for whom there is an adoption assistance agreement.

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Identification of model programs

With the passage of the Adoption and Safe Families Act of 1997, states are required to make permanency for children a top priority. Several states have reported substantial increases in foster care adoption rates since this federal law was enacted. Illinois has the highest rate of increase among all states, with South Carolina second (Children's Services Report, 1999).

The Illinois Department of Children and Family Services (DCFS) received the Adoption 2002 Excellence Award for increasing the number of permanent placements from 2,229 in FY 1997 to 5,422 in FY 98, including 4,293 adoptions and 1,129 guardianships. Jess McDonald, director of DCFS, exclaims that Illinois continues to increase the number of permanent placements, "Illinois moved over 9,500 children to adoptions or guardianship in FY 1999 and another 7,900 children in FY 2000" (Illinois Department of Children and Family Services [On-line]. Available: www.state.il.us/dcf/a2002.htm).

Additionally, the South Carolina Families for Kids Program has been successful in moving foster care children to permanent homes. According to the national survey, South Carolina's adoption rate increased from 256 in 1997 to 473 in 1998, an 84% increase (Children's Services Report, 1999). Due to this success, HHS awarded South Carolina Families for Kids Program the Adoption 2002 Excellence Award.

The success of both Illinois and South Carolina's increase in foster care adoption rates can be attributed to the adoption initiatives that each state instated. These initiatives will be explored in greater detail to allow other states to model their programs accordingly.

To begin with, the Illinois Permanency Initiative legislation that preceded ASFA and was signed into law by Governor Edgar in July 1997 accounts for much of the state's success. This law enforces permanency hearings to begin after a child has been in foster care for only 12 months, which allows DCFS to act more quickly to move children out of the child welfare system and into permanent homes when reuniting children with their families is not possible (Children's Services Report, 1999).

Furthermore, the Governor credits recent adoption success to several additional factors, including:

- 1) Increased emphasis by DCFS and private agencies on moving children from foster care to permanent homes.
- 2) Performance contracts, which provides incentives to private agencies moving children from foster care to permanent homes.
- 3) Stronger partnerships with the Illinois Juvenile Courts.
- 4) Innovative efforts to recruit adoptive homes, including the Corporate Adoption Recruitment Partnership, launched by the Governor to recruit adoptive families in the workplace, beginning with hospitals.
- 5) A reduction in the average caseload for caseworkers.

"Our allies united on many fronts to prioritize permanency," McDonald said. "Private agencies, DCFS administrators and staff, foster parents and relatives, the Illinois General Assembly, and

the Juvenile Courts came together to ensure compliance with the federal Adoption and Safe Families Act” (Illinois Department of Children and Family Services [On-line]. Available: <http://www.state.il.us/dcf/a2002.htm>).

Like Illinois, South Carolina changed the way they thought about child welfare. The process involved soliciting input from citizens, agencies, judges, social workers, and attorneys (CSR, 1999). A management team was formed at the State’s Department of Social Services to identify barriers and to problem-solve. The committee meets on a quarterly basis to recommend legislative and policy changes. In addition, a foster care newsletter written by foster children and the use of law school students from the University of South Carolina to work on permanency cases with attorneys are among a few of their innovative developments.

Just as Illinois had its own permanency law in place before ASFA, so too did South Carolina. This legislation, called the Child Protection Reform Act of 1996, establishes the welfare of children as the system’s primary goal. Furthermore, the strength of the new public/private partnerships forged by the South Carolina Families for Kids team led to South Carolina’s successful adoption rates. The key strategies of this program are as follows:

- 1) A major backlog blitz to streamline the public foster care and adoption process to move children into adoptive homes.
- 2) A new specialty agency to focus on adoptive family recruitment for African-American children.
- 3) Comprehensive legal and court reform driven by judges, other court personnel, and public and private attorneys.
- 4) Adoption preservation services for adoptive families to strengthen the family unit following legal adoption.
- 5) A new Children's Law Center for interdisciplinary education and technical assistance to legal and child placement agency personnel.
- 6) Mobilization of volunteer and church groups to provide support to children who wait for adoption.
- 7) A statewide communications campaign to promote foster and adoptive parenting and increase the public's awareness of improvements in the child.

The goal of ASFA is to promote safety and permanency for children. Both Illinois and South Carolina have been exemplary in their ability to adhere to the provisions of ASFA and accomplish the goals stated therein. The hope is for other states to model their programs accordingly.

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Websites

The following list of websites (mainly found at <http://www.calib.com/naic/links.htm>) contain information pertaining the Adoption and Safe Families Act of 1997.

Federal Sites

Administration for Children and Families

The Administration for Children and Families (ACF), within the Department of Health and Human Services (HHS) is responsible for federal programs which promote the economic and social well-being of families, children, individuals, and communities. At this site, you can access ACF press releases and find additional information about Federal programs for children and their families.

<http://www.acf.dhhs.gov>

Children's Bureau

The oldest federal agency for children, the Children's Bureau (CB) is responsible for assisting States in the delivery of child welfare services - services designed to protect children and strengthen families. In this site, you can get information about Federal programs assisting children and families, including AFCARS- the Adoption and Foster Care Analysis and Reporting System.

<http://www.acf.dhhs.gov/programs/cb>

<http://www.acf.dhhs.gov/programs/cb/dis/afcars/index.html>

Department of Health and Human Services

The governing body of more than 300 federal programs designed to protect the health and provide essential services to citizens. Contains fact sheets and evaluations regarding administration, research and policy of hundreds of federal programs.

<http://www.dhhs.gov>

Family and Youth Services Bureau

Family and Youth Services Bureau (FYSB) provides national leadership on youth issues and assists individuals and organizations in providing effective, comprehensive services for youth in at-risk situations and their families. A primary goal of FYSB programs is to provide positive alternatives for youth, ensure their safety, and maximize their potential to take advantage of available opportunities.

<http://www.acf.dhhs.gov/programs/fysb/>

National Organizations and Associations

American Public Human Services Association

American Public Human Services Association (APHSA) develops, promotes and implements public human service policies that improve the health and well-being of families, children and adults.

<http://www.aphsa.org>

Child Welfare League of America

The oldest and largest national nonprofit organization developing and promoting policies and programs to protect American's children and strengthen America's families.

<http://www.cwla.org>

National Adoption Information Clearinghouse

National resource for information on all aspects of adoption for professionals, policy makers, and the general public. Services include technical assistance to professionals and policy makers, a library collection, publications, databases or adoption resources, and information on Federal and State legislation.

<http://www.calib.com/naic>

National Adoption Foundation

NAF provides financial assistance, services and support to families, before, during and after their adoptions are finalized. In addition to providing financial assistance, NAF seeks to educate policy makers and the public about the financial barriers to adoption and the unmet needs many families have. The National Adoption Foundation is the only national resource dedicated exclusively to providing financial support, information and services directly to adoptive families.

<http://nafadopt.org>

National Association of Counsel for Children

NACC is a non-profit child advocacy and professional membership association dedicated to providing high quality legal representation for children. The NACC provides training and technical assistance to attorneys and other professionals, serves as a public information and professional referral center, and engages in public policy and legislative advocacy.

<http://www.naccchildlaw.org>

National Child Welfare Resource Center on Family-Centered Practice

The Center helps child welfare agencies and Tribes use family-centered practice to implement the tenets of the Adoption and Safe Families Act to ensure the safety and well-being of children while meeting the needs of families. In particular, the Center enhances clients' capacity to engage, assess, and plan to preserve and support families as well as to forge partnerships with formal systems (eg., the mental health, substance abuse, and domestic violence systems) and informal networks to protect children and strengthen families and communities.

National Child Welfare Resource Center on Legal and Judicial Issues

The Center provides expertise to agencies and courts on legal and judicial aspects of child welfare, including court improvement, agency and court collaboration, timely decisions on termination of parental rights, non-adversarial case resolution, reasonable efforts requirements, legal representation of children, permanent guardianship, confidentiality, and other emerging child welfare issues.

<http://www.abanet.org/child/rcjji/aboutus.html>

National Clearinghouse on Families and Youth

NCFY offers services that can assist organizations working with families and youth in locating

answers to questions or in making valuable contacts with other programs. The NCFY library contains free or low-cost publications on youth-related issues, as well as abstracts on thousands of other documents. NCFY organizes forums that bring together experts in the youth service field to develop strategies for improving youth policy and practice. NCFY shares information on these forums with local communities.

<http://www.ncfy.com/>

National Conference of State Legislatures

NCSL is your forum for advancing ideas in your home state, across other states, and on Capitol Hill; for promoting information-sharing, one-on-one and collectively; and for providing you with the knowledge and resources you need to get America's ideas working.

<http://www.ncsl.org>

National Data Archive on Child Abuse and Neglect

National Data Archive on Child Abuse and Neglect facilitates secondary analysis of research data relevant to the study of child abuse and neglect. The Archive maintains numerous databases including the National Child Abuse and Neglect Data System (NCANDS) and Adoption and Foster Care Analysis and Reporting System (AFCARS).

<http://www.ndacan.cornell.edu>

National Resource Center for Foster Care and Permanency Planning

The Center supports the efforts of child welfare agencies to provide high-quality services to children in foster care and their families and to help them achieve permanency. In particular, this Center helps agencies respond to widespread changes in child welfare brought about by implementation of the Federal Adoption and Safe Families Act, Multi-Ethnic Placement Act, and Indian Child Welfare Act. These changes encompass such issues as family group conferencing, kinship care, child welfare mediation, and recruitment and retention of foster and adoptive families.

<http://www.hunter.cuny.edu/socwork/nrcfcpp>

National Resource Center for Information Technology in Child Welfare

The Center helps State, local, and Tribal child welfare agencies, and family and juvenile courts use automated information systems to improve outcomes in the child welfare system. The Center provides technical assistance in the collection of data (as required by Federal law) for the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS), and disseminates information on best practices related to Statewide Automated Child Welfare Information Systems (SACWIS). The Center also helps its clients use data to improve services to children, youth, and families; evaluate results; and make informed decisions about policies, programs, and practices.

<http://www.nrcitcw.org>

National Resource Center for Youth Development

The Center focuses on increasing the capacity and resources of State, Tribal, and other publicly supported child welfare agencies to effectively meet the needs of youth who will be emancipated from the child welfare system. This will be accomplished by helping adolescents achieve the Adoption and Safe Families Act of 1997 goals of safety, permanency, and well-being through the

effective implementation of the John H. Chaffee Foster Care Independence Act of 1999 and other related programs.

<http://www.nrcys.ou.edu/Nrcyd.htm>