



## *Capitol View On Kids*

*The latest news on children and families in  
in Washington D.C.*

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### ***Bipartisan Bill Would Amend Education Law to Assist Foster Children***

On Friday, June 19, 2015, Senator Al Franken (D-MN) and Senator Charles Grassley (R-IA) introduced a key bipartisan measure, the *Educational Stability of Foster Youth Act*. The bill is an attempt to align federal education law with was enacted under child welfare law, Title IV-E in 2008. The bill would:

- Ensure that children can remain in their original school when it is in their best interest—when they enter foster care and move from placement to placement;
- Allow children to immediately enroll in a new school when it is not in their best interest to remain in their original school;
- Give students prompt access to their educational records when they must change schools;
- Require local educational agencies and child welfare agencies to work together to develop a process and ensure that funding for transportation is available;
- Assure that a point of contact for education of foster children is appointed in the local educational agency when there is also a point of contact in the corresponding child welfare agency; and
- Require a report by the Departments of Education and Health and Human Services on implementation of these new assurances for foster children, including on the progress made and remaining barriers

In a statement released at introduction Senator Franken said, “A quality education in a trusting environment can help children in foster care overcome the abuse, neglect, and instability that many of them may have experienced. Our bipartisan legislation will help support the education of kids in the foster care system. It’s far past time that we take steps to ensure that children have access to an equal education.”

Those sentiments were echoed by cosponsor Senator Grassley who said that “It’s important to remember that kids in foster care often don’t have school stability. That can put them behind in their education, and getting behind can be hard to overcome. In the worst case, older kids drop out of school altogether. This bill will help make sure that school stability is at the forefront for foster kids.”

The legislation would be offered up or included as part of the reauthorization of the Elementary and secondary Education Act (ESEA/No Child Left behind Act). That bill [S 1177](#) as been awaiting Senate floor time and debate since the beginning of May. It hoped that the Senate would debate it before the July 4<sup>th</sup>

break but that will start at the end of this week. The *Educational Stability of Foster Youth Act* was also the support of HELP Committee Ranking Member Senator Patty Murray (D-WA) and Senate Finance Committee Chair Senator Orrin Hatch (R-UT). You can read a summary of the bill [here](#) and you can download a copy of the bill [here](#).



### **House Subcommittee Moves Labor-HHS Bill**

Operating under budget caps and an allocation \$3 billion below 2014 funding, on Wednesday, June 17 the House Appropriations Subcommittee approved a funding bill for 2016. The bill is still in draft form until the full report is prepared for full committee deliberation.

The House draft avoids some of the controversial cuts of the recent past although it's still de-funds programs to carry out the Affordable Care Act. The subcommittee is using a strategy that was used in the late 90's when the committee selected certain popular programs for increases while cutting Administration priorities.

The losers, in addition to the ACA, include elimination of all funding for family planning, no increase in child care and some education program eliminations. At the same time the committee honored the President's budget request for an increase for the Centers for Disease Control and Prevention (CDC), added more for the National Institutes for Health (NIH) (an increase of \$1.1 billion which is a \$100 million more than the President's budget), and added increases for substance abuse funding to \$3.6 billion (although \$21 million below the President's budget). Much of that increase is intended to deal with the rising heroin and prescription drug abuse.

Within the Administration for Children and Families (ACF) budget, Head Start receives a very small increase to \$8.8 billion. That splits out a \$192 million increase with \$150 million for Early Head Start and the remaining \$42 million for a cost-of-living adjustment. There is no increase in child care funding despite the fact that the new child care reauthorization law requires expanded eligibility and inspection requirements, provisions that are understood to cost more to implement.

In addition to various cuts in presidential priorities, the bill includes several riders that will draw a veto threat. The bill would restrict the Department of Education from implementing new regulations and oversight of college loans, in addition the bill also has riders/restrictions in regard to labor and on abortion.

The bill now awaits a full committee mark-up.

As of last week the House had sent six appropriations bills to the Senate: Commerce-State-Justice (HR 2578), Energy and Water (HR 2028), Legislative Branch (HR 2250), Military Construction (HR 2029), Transportation Housing and Urban Development (HR 2577) and Defense. There are twelve appropriations bills that fund the government along with an annual defense reauthorization.



## **Supreme Court Upholds Child Abuse Evidence Via Mandatory Reporter**

On Thursday, June 18 the Supreme Court upheld the use of a child's comments to a mandatory child abuse reporter (a teacher) in the trial of his abuser. The ruling *Ohio V Clark* was 9 to 0 with Justice Alito writing the main opinion with a separate opinion by Thomas and a third opinion by Scalia and Ginsburg. As the Court described it, "Darius Clark sent his girlfriend away to engage in prostitution while he cared for her 3-year-old son L. P. and 18-month-old daughter A. T. When L. P.'s preschool teachers noticed marks on his body, he identified Clark as his abuser. Clark was subsequently tried on multiple counts related to the abuse of both children. At trial, the State introduced L. P.'s statements to his teachers as evidence of Clark's guilt, but L. P. did not testify."

The Ohio courts, including the state Supreme Court threw out the child abuse conviction which had resulted in a criminal sentence of more than twenty years. The state courts upheld the defendant's motion to exclude the child's statements via the mandatory reporter under the Sixth Amendment's Confrontation Clause.

The confrontation clause provides the right to face your accuser. The prosecutor had entered as evidence the child's comments because in Ohio children under ten do not generally testify. Justice Alito, held that the child's discussion to the teacher was not testimonial and didn't trigger the confrontation clause. Alito wrote:

*"Mandatory reporting obligations do not convert a conversation between a concerned teacher and her student into a law enforcement mission aimed at gathering evidence for prosecution. It is irrelevant that the teachers' questions and their duty to report the matter had the natural tendency to result in Clark's prosecution. "*



## **Republican Leaders Discuss Options on ACA—CBO Says Repeal Will Cost**

With time running out on this session's Supreme Court term, Republican senators are discussing their options on how to react to a possible court ruling that would cut-off potentially 6.4 million people from their health insurance tax credits. At the same time the Congressional Budget Office said in an updated review that repeal of the ACA would increase the deficit by at least \$137 billion over the next ten years.

The Court has a few big rulings to issue (also gay marriage) but the one that could cause the biggest political disturbance in Washington would be if the Court rules that the way the ACA is technically written prohibits tax credits to offset the cost of health insurance from being provided in states currently relying on the federal health exchange.

The discussion taking place in the Senate would extend the tax credits for a period of time such as two years (delaying any major decisions until the next Administration). On the House side the talks are also about a temporary extension. There seems to be greater support of the temporary fix in the Senate but there is no clear indication how the four senator-presidential candidates will react. Some may demand full repeal of the ACA.

A push to repeal becomes more of a challenge because of the new CBO estimate. If they attempt to use the reconciliation process the narrow requirements of reconciliation does not allow changes in law that will worsen the deficit. The CBO report also calculated that in addition to deficit problems, 19 million

people would lose health insurance in 2016 rising to 24 million people losing coverage by the end of the decade.

Any plan would need to get the President's signature and President Obama will not sign legislation that would undercut or destroy what he sees as one of his biggest legacies.

If the Court restricts tax credits to state run exchanges, patients and states could face some real financial burdens in continuing health insurance, 6.4 million by general estimates. Through the ACA exchanges people can compare and buy health insurance. If that person is below 400 percent of poverty then a federal tax credit reduces the monthly premium on a sliding scale. Generally there are 34 states relying on the federal exchange rather than using their own exchange. But within the thirty-four states are variations including federal-state partnerships.

The Supreme Court usually issues their rulings on Mondays and Thursdays but they do make exceptions for major year-end calls.



### *Joint Briefing Paper Highlights Tribal Disproportionality In JJ*

The [Coalition on Juvenile Justice](#) and the [Tribal Law and Policy Institute](#) have published a new brief paper, "[American Indian/Alaska Native Youth & Status Offense Disparities: A Call For Tribal Initiatives, Coordination & Federal Funding.](#)"

The paper examines the overrepresentation of American Indian and Alaskan Native youth in the nation's juvenile justice system. The research indicates that these young people are almost twice as likely to be jailed for status offense (such as skipping school, under-age drinking and other offenses related to juvenile status) then the rest of this age group and population.

American Indian/Alaskan native youth are more likely to be petitioned to state courts for a status offense, especially liquor law violations and that they experience higher rates of detention, residential placements and are more likely to experience trauma, violence, and alcohol abuse than other youth. The authors argue that these young people experience a higher rate of detention and residential placement because they lack access to effective, strengths-based diversion programs that address their mental health and substance abuse issues.

The paper emphasizes that the federal, state, local, and tribal stakeholders should coordinate efforts to optimize limited resources, share information, resolve jurisdictional issues, and increase access to culturally relevant services for AI/AN youth who are charged with a status offense. But the paper also highlights the challenges and strains between these potential partners because of past history and interaction or in many cases no interaction.

"Tribes and states have different cultures and legal traditions and they can have very different views on tribal sovereignty...effective coordination requires building mutual respect and developing open communication lines between these stakeholders."

They also suggest fully resourced tribally-driven responses to address status offenses are the best practice, but funding is a barrier. With federal funding under the Department of Justice budget (OJJDP AI/AN youth specific grants) have decreased from \$24.2 million in 2010 to less than \$4.9 million in 2014.

The [report](#) includes a number of actions for state and local stakeholders.



### **UPCOMING CAPITOL HILL BRIEFINGS/EVENTS**

- **Wednesday, June 24, 2015, 12pm - 4:00pm EDT, National Press Club, Washington, DC.** Attendees will receive a copy of the *Children's Budget 2015*, **First Focus Children's Budget Summit 2015**, Lunch and refreshments will be provided. Seating is limited, [please register in advance](#).
- **The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF)**, a federal advisory committee established by the *Protect Our Kids Act of 2012 (P. L. 112-275)*, will hold an open meeting in **Madison, Wisconsin** on **Wednesday, July 15 from 8:00 a.m. to 5:15 p.m. and Thursday, July 16 from 8:00 a.m. to 12:30 p.m. Central Daylight Time. Location: Sheraton Madison, 706 John Nolen Drive, Madison, WI 53713**