

119TH CONGRESS
1ST SESSION

S. 2902

To require States to measure and publicly report on the separation of children from parents by hidden foster care arrangements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18 (legislative day, SEPTEMBER 16), 2025

Mr. CORNYN (for himself and Mr. OSSOFF) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To require States to measure and publicly report on the separation of children from parents by hidden foster care arrangements, 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.**

4 This Act may be cited as the “Hidden Foster Care
5 Transparency Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **CPS AGENCY.**—The term “CPS agency”
9 means the State agency responsible for the adminis-
10 tration of the State plans under parts B and E of

1 title IV of the Social Security Act (42 U.S.C. 621
 2 et seq., 671 et seq.) and any State, county, local, or
 3 tribal child protective services agency.

4 (2) HIDDEN FOSTER CARE ARRANGEMENT.—

5 (A) IN GENERAL.—The term “hidden fos-
 6 ter care arrangement” means any separation of
 7 a child from the child’s parents or primary
 8 caregivers that occurs without the State taking
 9 responsibility for the care or placement of the
 10 child and without a court order or the involve-
 11 ment and oversight of a court of law, whether
 12 voluntary or involuntary. Such term includes a
 13 separation of a child that occurs—

14 (i) following a child protection hotline
 15 call or during an investigation by a CPS
 16 agency; or

17 (ii) while a CPS agency has any in-
 18 volvement with a child’s parents or pri-
 19 mary caregivers but without the State tak-
 20 ing responsibility for the care or placement
 21 of the child and without a court order or
 22 the involvement and oversight of a court of
 23 law, whether voluntary or involuntary.

24 (B) INCLUDED ARRANGEMENTS.—Such
 25 term includes—

1 (i) any arrangement in which a CPS
2 agency suggests, implies, or insists that a
3 parent should or must permit the parent's
4 child to live with someone else in response
5 to an investigation of allegations that the
6 parent, or a spouse, partner, or other indi-
7 vidual who resides with the parent, has ne-
8 glected or abused the child; and

9 (ii) any arrangement commonly re-
10 ferred to as “kinship diversion,” “foster
11 care diversion,” “safety planning,” “infor-
12 mal family planning,” or “hidden foster
13 care” to the extent that such arrangement
14 occurs without a court order or court over-
15 sight.

16 (3) SECRETARY.—The term “Secretary” means
17 the Secretary of Health and Human Services.

18 (4) STATE.—The term “State” has the mean-
19 ing given that term in section 1101(a) of the Social
20 Security Act (42 U.S.C. 1301(a)) for purposes of
21 parts B and E of title IV of the Social Security Act
22 (42 U.S.C. 621 et seq., 671 et seq.).

1 **SEC. 3. STATE REPORTS ON HIDDEN FOSTER CARE AR-**
 2 **RANGEMENTS.**

3 As a condition for payment of funds under a State
 4 plan approved under part E of title IV of the Social Secu-
 5 rity Act (42 U.S.C. 671 et seq.), a State shall submit to
 6 the Secretary as part of the Adoption and Foster Care
 7 Analysis and Reporting System (42 U.S.C. 679) data that
 8 specifies, for each such fiscal year—

9 (1) the number of children separated from their
 10 parents by a hidden foster care arrangement;

11 (2) the number of hidden foster care arrange-
 12 ments that ended without the child entering the for-
 13 mal foster care system;

14 (3) the number of hidden foster care arrange-
 15 ments that ended through the placement of the child
 16 into the formal foster care system;

17 (4) the category or type of allegation raised in
 18 each case which resulted in a separation of a child
 19 from their parents by a hidden foster care arrange-
 20 ment;

21 (5) to the extent data is available, the number
 22 of caregivers in a hidden foster care arrangement
 23 who received additional services including referrals
 24 to kinship navigator programs, prevention services
 25 programs funded under part B or E of title IV of
 26 the Social Security Act (42 U.S.C. 621 et seq., 671

1 et seq.), services provided by an entity or organiza-
2 tion other than a CPS agency, or to legal counsel;

3 (6) the result of any investigation leading to a
4 hidden foster care arrangement (whether an allega-
5 tion is substantiated or indicated or not substan-
6 tiated or indicated;

7 (7) how many parents—

8 (A) were—

9 (i) provided legal counsel; or

10 (ii) referred to a legal services pro-
11 vider before a hidden foster care arrange-
12 ment began or within 72 hours of such an
13 arrangement; and

14 (B) were actually represented by legal
15 counsel within 72 hours of such an arrange-
16 ment;

17 (8) the length of time children were in a hidden
18 foster care arrangement, including the number of
19 children in a hidden foster care arrangement for
20 more than 90 days without any court orders ad-
21 dressing custody;

22 (9) the number of children who left hidden fos-
23 ter care arrangements—

1 (A) by reunification with the parent or
2 guardian from whom they were initially sepa-
3 rated;

4 (B) by returning to a different parent or
5 guardian; or

6 (C) through—

7 (i) a kinship caregiver obtaining legal
8 custody or guardianship outside of the fos-
9 ter care system;

10 (ii) entry in the foster care system
11 and placement with kin; and

12 (iii) entry in the foster care system
13 and placement with someone else;

14 (10) a list of specific services provided to par-
15 ents, children, and kinship caregivers affected by a
16 hidden foster care arrangement and, for each such
17 group, the number and specific services provided;
18 and

19 (11) a list of reports of substantiated abuse or
20 neglect made to a CPS agency within 3, 6, 9, or 12
21 months after a child is identified as being in a hid-
22 den foster care arrangement, where the child was
23 living at time of report.

1 **SEC. 4. SECRETARIAL RESPONSIBILITIES.**

2 (a) ANNUAL REPORT TO CONGRESS ON HIDDEN
 3 FOSTER CARE ARRANGEMENT PRACTICES.—The Sec-
 4 retary shall submit an annual report to Congress based
 5 on the most recent State reports submitted under section
 6 3. Each annual report shall include the following:

7 (1) The total number of children for whom a
 8 hidden foster care arrangement ended during the fis-
 9 cal year reported on, and of that number—

10 (A) how many of the hidden foster care ar-
 11 rangements ended without the child entering
 12 the formal foster care system; and

13 (B) how many of the hidden foster care ar-
 14 rangements ended through the placement of the
 15 child into the formal foster care system.

16 (2) The total number of each category or type
 17 of allegation raised in a case which resulted in a sep-
 18 aration of a child from their parents by a hidden
 19 foster care arrangement.

20 (3) To the extent data is available, the number
 21 of caregivers in a hidden foster care arrangement
 22 who received additional services, including referrals
 23 to kinship navigator programs, prevention services
 24 programs funded under part B or E of title IV of
 25 the Social Security Act (42 U.S.C. 621 et seq., 671

et seq.), services provided by an entity or organization other than a CPS agency, or legal counsel.

(4) The number of States that submit a report under section 3 for the fiscal year involved and a summary of such reports that includes a summary of the ways in which States address hidden foster care arrangements within the most recent State plan reports submitted part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq., 671 et seq.).

(b) IMPLEMENTATION.—

(1) CONSISTENT DATA.—The Secretary shall ensure that, to the extent practicable, the data and information required to be reported under section 3—

(A) is collected and reported in a reliable and standardized manner by all States;

(B) provides a comprehensive, national picture of the practice of hidden foster care arrangements; and

(C) draws upon and does not duplicate other required child welfare data collection and reporting regarding children for, or on whose behalf, prevention services are offered, including under section 471(e)(5)(B)(x) of the Social Se-

1 security Act (42 U.S.C. 671(e)(5)(B)(x)), section
2 479 of such Act (42 U.S.C. 679), and subpara-
3 graphs (C) and (D) of section 103(c)(1) of the
4 Child Abuse Prevention and Treatment Act and
5 106(d) of the Child Abuse Prevention and
6 Treatment Act (42 U.S.C. 5103(c)(1),
7 5106a(d)).

8 (2) GUIDANCE; TECHNICAL ASSISTANCE.—The
9 Secretary may use funds made available to carry out
10 part E of title IV of the Social Security Act (42
11 U.S.C. 670 et seq.) to issue guidance or provide
12 technical assistance to States with respect to the
13 data and information required to be reported under
14 section 3.

15 (3) PUBLICATION AND MANNER OF SUBMIS-
16 SION.—The Secretary—

17 (A) may include the report required by
18 subsection (a) in the annual compilation of
19 State reports required to be submitted to Con-
20 gress under section 479A of the Social Security
21 Act (42 U.S.C. 679b); and

22 (B) shall make each report submitted to
23 Congress in accordance with subsection (a) pub-
24 licly available.

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