

ACF

Administration
For Children
And Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families

1. Log No: ACYF-CB-PI-07-03

2. Issuance Date: February 22, 2007

3. Originating Office: Children's Bureau

4. Key Words: Foster Care; Court Improvement Program Amendments

PROGRAM INSTRUCTION

- TO:** Highest State Courts of Appeal
- SUBJECT:** Court Improvement Program Requirements of the Safe and Timely Interstate Placement of Foster Children Act of 2006
- REFERENCES:** Section 438 of the Social Security Act; Sections 8(b) and 9 of the Safe and Timely Interstate Placement of Foster Children Act of 2006; Titles IV-B and IV-E of the Social Security Act.
- PURPOSE:** The purpose of this Program Instruction is to inform State courts of new requirements under the Court Improvement Program and to provide instructions on actions State courts must take to meet these requirements.
- BACKGROUND:** The President signed the Safe and Timely Interstate Placement of Foster Children Act, Public Law (P.L.) 109-239, into law on July 3, 2006. P.L.109-239 amends Titles IV-B and IV-E of the Social Security Act (the Act), encourages States to improve protections for children and holds them accountable for the safe and timely placement of children across State lines. P.L.109-239 also amends section 438(a) and (b) of the Act to include specific requirements for the highest State court participating in the Court Improvement Program.
- Section 438(a)(1)(E) of the Act, which applies only to State courts receiving the basic court improvement grant, requires the courts to assess their effectiveness in carrying out State laws that:

- require courts in different States to cooperate in sharing information
- authorize courts to obtain information and testimony from agencies and parties without requiring interstate travel by the agencies and parties, and
- permit the participation of parents, children, other necessary parties, and attorneys in interstate placement cases without requiring their interstate travel.

Under section 438(b)(1) of the Act, State courts must have in effect a rule ensuring that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care are notified of any proceedings held with respect to the child. This provision applies to any of the three court improvement grants under section 438(a) of the Act.

INSTRUCTION:

Assessment of Interstate Placements

State court applications for the FY 2007 basic court improvement grant, which are due to ACF by June 30, 2007, must include a description of steps planned and undertaken to assess the State's policies and procedures for the interstate placement of children. A report of this assessment, including recommendations for improvement, must be completed and submitted with the application for FY 2008 funding, due to ACF by June 30, 2008.

Additional instruction on this new requirement will be provided in a Program Instruction for the basic court improvement grant to be issued in Spring 2007.

Notification of Proceedings

The highest State court in each State must issue a mandate to lower courts requiring them to ensure that notice of court proceedings (i.e., permanency hearings and periodic reviews, if held by the court) is being provided consistent with section 438 of the Act. The highest State court may determine the appropriate format for the mandate. Some States may choose to enact court rules. Other States may issue a letter from the Chief Justice to all State courts that conduct the relevant proceedings.

Although the highest State court must ensure that such notice is taking place, the courts themselves are not required by section 438(b)(1) to issue the notices. Therefore, the State child welfare agency and the court may continue their notice procedures consistent with a preexisting title IV-E requirement in section

475(5)(G) of the Act (see also 65 FR 4064), provided that the requirement of section 438(b)(1) is met. The court is encouraged to collaborate closely with the State child welfare agency to ensure that there is an effective mechanism for notice and that there is follow-up to ensure that it is taking place.

State court applications for any of the three court improvement grants for FY 2007 must include a copy of the highest State court's rule or other mandate that is in effect requiring State courts to ensure the required notice is being served to foster parents, pre-adoptive parents, and relative caregivers.

INQUIRIES TO:

Children's Bureau Regional Program Managers

/s/

Joan E. Ohl
Commissioner
Administration on Children,
Youth and Families