

Executive Summary—

Draft Initiative for Child Welfare Reform

Purpose:

The Act aims to protect families, ensure due process, and improve child welfare outcomes by strengthening legal protections, raising standards for child removals, and supporting families in crisis.

Key Sections & Highlights

Section 1. Title

- ▶ Officially named the "Child Welfare Due Process Reform Act."
- ▶ Focuses on fairness in CPS investigations and preventing unnecessary family separations.

Section 2. Definitions

- ▶ Establishes clear definitions for terms like "Clear and Convincing Evidence," "Immediate Danger," and "Kinship Care."
- ▶ Introduces the "Independent Child Welfare Review Board (ICWRB)" to audit CPS actions and enforce compliance.

Section 3. Purpose

- ▶ Raises evidentiary standards for child removals to prevent unjustified separations.
- ▶ Guarantees free legal representation for parents throughout CPS investigations.
- ▶ Prioritizes kinship care and addresses poverty-related issues with support programs rather than penalties.

Section 4. Evidentiary Standards for Child Removals

- ▶ Requires "Clear and Convincing Evidence" to justify child removal, emphasizing immediate and verifiable danger.
- ▶ Prohibits reliance on predictive risk models and removes the basis for action rooted in poverty.
- ▶ Strengthens protections for emotional or psychological harm allegations with required mental health evaluations.

Section 5. Legal Representation for Parents

- ▶ Mandates free legal counsel from the start of a CPS investigation for families unable to afford representation.
- ▶ Ensures CPS provides written information on parents' rights and access to legal aid.
- ▶ Prevents CPS from taking coercive actions without an attorney present.

5.1 Judicial Oversight:

- (a) Parents have the right to an emergency court hearing within 10 days of a removal.
- (b) Courts must determine CPS compliance with evidence standards.
- (c) Burden of proof is on CPS to justify removals and document efforts to prevent them.

5.2 Implementation:

- (a) Establishes a division of specialized child welfare public defenders through Oregon Public Defense Services (OPDS).
- (b) Funds legal services via federal grants and mandates attorney training in family law and trauma-informed practices.

5.3 Oversight & Monitoring:

- (a) Creates the ICWRB to investigate CPS actions, enforce due process, and ensure compliance with the Act.
- (b) Annual DHS reports will measure legal representation outcomes, including family reunifications and foster care reduction.

5.4 Anticipated Outcomes

- (a) Improved Parental Engagement: Ensures parents are informed and empowered during investigations.
- (b) Reduction in Wrongful Removals: Higher legal standards and oversight minimize unnecessary separations.
- (c) Enhanced Trust: Transparent, fair processes rebuild public confidence in the child welfare system.

Section 6: Expanding Kinship Care & Poverty Relief Programs

This section prioritizes kinship care placements over foster care and aims to tackle poverty-related issues that lead to unnecessary child removals:

6.1 Prioritizing Kinship Care

- (a) Mandates kinship placements over foster care unless clear and convincing evidence proves immediate danger.
- (b) Requires judicial approval for bypassing a willing relative.
- (c) Ensures equal financial support for kinship caregivers, offering childcare vouchers, transportation assistance, and counseling services.
- (d) Provides training and peer support networks for kinship caregivers.

6.2 Addressing Poverty-Based Child Removals

- (a) Prohibits removals based on poverty factors like housing instability, food insecurity, or lack of medical care.
- (b) Introduces Family Preservation Services for crisis relief (e.g., rent, utilities, and childcare assistance).
- (c) Creates a Family Preservation Fund to support at-risk families.
- (d) Partners with community organizations for tailored aid in low-income areas.

6.3 Oversight

- (a) Collects data on kinship placements and family support outcomes.
- (b) Implements audits by the Independent Child Welfare Review Board (ICWRB).

Section 7: Ensuring Bipartisan Support

The Act appeals to bipartisan values by:

- ▶ Aligning with conservative goals of due process and limited government intervention.
- ▶ Supporting progressive aims of social justice and child welfare reform.

This balanced approach aims to unify political support for protecting children and family rights.

Section 8: Implementation & Funding

8.1 Implementation Plan:

- 8.1.1 **Phase 1** (First 6 Months): Revise policies, remove "risk of harm" standards, expand parent legal defense infrastructure, and begin judicial and CPS caseworker training.
- 8.1.2 **Phase 2** (6-18 Months): Launch pilot programs in five high-need counties, roll out the Family Preservation Fund, and monitor outcomes.

- 8.1.3 **Phase 3** (18–36 Months): Statewide rollout and accountability through random case audits by the ICWRB.

8.2 Funding Strategy:

- 8.2.1 Reallocate budgets from foster care placements to kinship care, legal defense, and preservation services.
- 8.2.2 Secure federal funding via the Family First Prevention Services Act (FFPSA) and Title IV-E grants.

Section 9: Conclusion

The Act ensures fairness in CPS investigations, prevents unnecessary child removals, and strengthens family unity. It represents a common-sense, bipartisan approach to safeguarding children while protecting parental rights and due process.