



The Brave New World of Out of Home Care in Florida Resources 3/19/21

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What Lawyers Can Do to Implement the Older Youth Provisions of the Consolidated Appropriations Act

How do the Older Youth Provisions of the Consolidated Appropriations Act Help Young People in and Leaving Foster Care?

The law is a response to the COVID-19 pandemic for youth in foster care, but states have been slow to implement the law. Many provisions of the law are only in effect until September 30, 2021 so time is of the essence. Lawyers can play a crucial role in making sure the benefits of the law get to young people and that states move with urgency.

The older youth provisions of the law are *currently in effect* and provide support to youth in foster care and who have aged out during the pandemic by:

- Imposing a **Moratorium on Aging Out** in all States, Territories and Tribes
- Requiring that all States **Provide Re-Entry** to Foster Care to Youth who Aged-Out During the Pandemic
- Providing **IV-E Funding for Youth 21+** who Extend or Re-enter Foster Care
- Providing **\$400 million in Flexible Chafee Funds**, including \$50 million for Education and Training Vouchers (ETV)

Where can I go to find out the details of the law?

The older youth provisions are section 3 and 4 of Division X of the Consolidated Appropriations Act. You can find the text of the provisions, a detailed summary of the law, and the Program Instructions from the Children's Bureau [here](#). You can find a stakeholder and youth friendly flyer about the law [here](#).

What can I do as a lawyer to make sure young people in my state get the benefit of the moratorium and re-entry provisions?

- Meet with your child welfare agency, share information about the law and make a plan for implementation.
- Identify clients who are eligible for the moratorium and re-entry, notify and provide information about the new law and the assistance it can provide.
- Make formal requests for extension of foster care to the child welfare if they are not implementing the law.
- Make motions to confirm extension of foster care and to oppose a discharge that violate the new law if needed.
- Make requests and file motions for re-entry.

What can I do as a lawyer to make sure the child welfare agency uses the increase in Chafee funds to provide direct financial assistance and other support to young people?

- Make recommendations about how the Chafee funding increase can be used. Here are [examples](#) of recommendation from CA, FL, OH, and PA.
- Urge your child welfare agency to provide direct, stimulus style payments to young people to meet their urgent needs.
- Assist youth in documenting their needs and making requests for funds and other services, like housing.
- Share examples and tools with your child welfare agency to develop direct financial assistance programs. [FosterClub](#) is collecting examples and tools you can share.

Are there examples of lawyers taking action to advance implementation of the law?

A lot of great advocacy is happening across the country. Here are a few examples:

- Attorneys in PA and MO are making requests with their child welfare agencies and filing motions for extension of foster care and re-entry. You can find templates [here](#).
- KidsVoice in Allegheny County, PA notified their clients of the law and developed a [youth friendly flyer](#) you can edit.
- KidsVoice in Allegheny County, PA met with their child welfare agency and developed a plan so all eligible youth will be provided extended foster care services and are working to develop a program for direct financial assistance.

Who can you reach out to if you want help or more information on how to advocate for quick and effective implementation of the law?

We are happy to help and connect you with resources and other colleagues across the country doing implementation work:

Scott Hollander, KidsVoice, shollander@kidsvoice.org

Jennifer Pokempner, Juvenile Law Center, jpokempner@jlc.org

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For questions about this tip sheet, please email jpokempner@jlc.org

ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-PI-21-04	2. Issuance Date: March 9, 2021
	3. Originating Office: Children's Bureau	
	4. Key Words: Supporting Foster Youth and Families through the Pandemic Act; Title IV-B, Title IV-E, Court Improvement Program, John H. Chafee Foster Care Program for Successful Transition to Adulthood, Education and Training Vouchers Program, Family First Transition Act	

PROGRAM INSTRUCTION

TO: State, Tribal, and Territorial Agencies Administering or Supervising the Administration of Titles IV-E and IV-B of the Social Security Act, the Highest State Court of Appeals, and State and Tribal Court Improvement Program Grantees.

SUBJECT: Guidance and instruction related to the Supporting Foster Youth and Families through the Pandemic Act, Division X of the *Consolidated Appropriations Act, 2021*, Public Law (P.L.) 116-260, enacted December 27, 2020.

LEGAL AND RELATED REFERENCES: Titles IV-B and IV-E of the Social Security Act (the Act).

PURPOSE: The purpose of this Program Instruction (PI) is to provide instruction and guidance to title IV-B/ IV-E agencies and Court Improvement Program Grantees on actions required to address the Supporting Foster Youth and Families through the Pandemic Act which was enacted as Division X of P.L. 116-260, the *Consolidated Appropriations Act, 2021*.

BACKGROUND: The *Consolidated Appropriations Act, 2021*, P.L. 116-260, enacted into law on December 27, 2020, makes continuing appropriations for specified federal agencies and provides temporary flexibilities and assistance in response to the COVID-19 pandemic and public health emergency.¹ Division X of P.L. 116-260, titled, the “Supporting Foster Youth and Families through the Pandemic Act,” includes additional, supplemental or enhanced funding for

¹ “COVID-19 public health emergency” is defined in section 2(1) of Division X for purposes of Division X as the public health emergency declared by the Secretary entitled “Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus,” beginning January 27, 2020 and currently authorized until April 20, 2021 ([subject to be extended](#)).

several programs authorized under titles IV-B and IV-E of the Act and requires title IV-E agencies to take a number of actions to protect and support youth/young adults currently or formerly in foster care. Please see Information Memorandum [ACYF-CB-IM-21-05](#) issued on January 13, 2021 for a summary of all provisions in Division X.

This PI addresses the following provisions:

Section A: Youth/Young Adult Provisions.

1. Temporary requirements for title IV-E agencies to allow youth over age 18 to remain in or re-enter foster care and suspension of the age and education/employment requirements for title IV-E foster care maintenance payments for youth;
2. John H. Chafee Foster Care Program for Successful Transition to Adulthood (Chafee program) Additional Funding and Flexibilities;
3. Education and Training Vouchers (ETV) Program Additional Funding and Flexibilities; and
4. Financial and Reporting Information for the Chafee and ETV Program Additional Funding

Section B: Emergency Funding for the MaryLee Allen Promoting Safe and Stable Families Program

Section C: Court Improvement Program Supplemental funding

Section D: Family First Prevention Services Program Pandemic Flexibility

Section E: Adjustment of Baselines for Family First Transition Act Funding Certainty Grants

A separate PI will be issued to address provisions in Division X relating to the title IV-E Kinship Navigator program.

Section A: Youth/Young Adult Provisions.

Overview: The Supporting Foster Youth and Families through the Pandemic Act (Division X of P.L. 116-260) directs title IV-E agencies to prevent youth from “aging out” of foster care and to facilitate re-entry into foster care for youth who previously aged out of foster care for the period specified in Division X. It also temporarily waives certain title IV-E foster care eligibility requirements for youth age 18 and older. The law also provides \$400 million in additional appropriations for the Chafee program for fiscal year (FY) 2021, of which \$50 million is reserved for ETV (see Attachments A and B for Chafee and ETV additional allotments). The law also directs that 1.5 percent of the \$400 million be reserved for HHS technical assistance and evaluation activities. Title IV-E agencies may also use the additional Chafee funding for meeting the extended foster care requirements, as described in detail below.

The temporary title IV-E requirements and the additional Chafee/ETV funding and flexibility address the critical financial needs of youth/young adults who are or were

formerly in foster care. Because many of these young people, once discharged from foster care, lack access to stable housing, income, and other resources that may be available to youth/young adults in intact families, the funding and flexibilities provided by the Supporting Foster Youth and Families through the Pandemic Act are critical to ensuring youth are protected and supported. Without adequate outreach and support, there is a very real risk that youth who have left the foster care system will become homeless or experience other negative outcomes.

In carrying out the provisions of the law, CB encourages all title IV-E agencies to draw on the expertise of those individuals who will receive the assistance and services at both the individual and system-level. Youth and young adults are in the best position to identify their most critical needs. CB encourages title IV-E agencies to make engagement and peer support² a critical part of implementation. Some potential approaches to engaging young people in implementation include:

- Invite existing entities, such as youth advisory boards or other youth leadership groups, to meet with and advise the agency in implementation efforts. Ensure that advisory activities are inclusive of the diverse population of eligible youth, including young people who are expectant or parenting; young people with different racial, cultural and ethnic backgrounds; Lesbian, Gay, Bi-Sexual, Transgender, and Questioning (LGBTQ) youth; and youth from both urban and rural areas.
- Enlist community-based agencies in outreach and notification activities to ensure all eligible young people learn about available assistance and how to access it.
- Partner with community-based organizations that have direct connections with young people, are able to outreach to them, and include young people among their workforce who can support in resource navigation, connection and more.

Investing in these strategies will build youth engagement into the agency's implementation infrastructure from the start and lay the groundwork for sustained youth engagement after the COVID-19 pandemic and public health emergency.

Young adults are a highly mobile population. CB urges states to evaluate and determine the most expeditious way to verify a youth/young adult's former foster care history. In this time of crisis, a youth's state of origin should not preclude them from receiving critical services to prevent their homelessness and ability to connect to the social service system in the community where they now live.

Detailed information on each of the youth/young adult provisions in the Supporting Foster Youth and Families through the Pandemic Act is outlined below.

² Peer support is defined as utilizing other individuals with lived expertise in the child welfare system to engage with other youth and young adults.

A1: Temporary requirements for title IV-E agencies to allow youth over age 18 to remain in or re-enter foster care and suspension of the age and education/employment requirements for title IV-E foster care maintenance payments for youth.

The Supporting Foster Youth and Families through the Pandemic Act establishes new temporary requirements that all title IV-E agencies must carry out to prevent youth from aging out of foster care and to facilitate re-entry into foster care. These requirements apply whether or not a title IV-E agency currently is approved to provide eligible youth age 18 or older title IV-E foster care maintenance payments under section 475(8)(B) of the Act and regardless of the current maximum age for foster care under the laws and policies of the state or tribe. A chart below provides a summary of timeframes for the provisions described in Section A1.

The Supporting Foster Youth and Families through the Pandemic Act requires:

- *Temporary suspension of aging out of foster care and permitting re-entry of youth who have left foster care:* The title IV-E agency may not require a youth to leave foster care solely due to age from December 27, 2020 through September 30, 2021 (section 4(a) of Division X). Further, the title IV-E agency must permit any youth who left foster care due to reaching the state/tribe's maximum age during the COVID-19 public health emergency (defined in section 2(1) of Division X, currently January 27, 2020 – April 20, 2021, subject to be extended) to voluntarily re-enter foster care (section 4(b) of Division X). Regardless of any future extensions of the COVID-19 public health emergency, the re-entry requirement expires after September 30, 2021. There is no upper age limit on remaining in foster care or re-entering foster care under these provisions, meaning it is possible that a state or tribe would be required to allow a youth age 21 or older to remain in or re-enter foster care.

The title IV-E agency must also: 1) continue to ensure that the safety, permanence, and well-being needs of older foster youth, including youth who remain in or re-enter foster care, are met; and 2) work with any youth who remains in foster care after attaining 18 years of age (or such greater age as the state may have elected under section 475(8)(B)(iii) of the Act) to develop, or review and revise, a transition plan consistent with the plan referred to in section 475(5)(H) of the Act, and assist the youth with identifying adults who can offer meaningful, permanent connections (section 475(5)(H) of the Act; section 4(c) of Division X). The title IV-E agency must make reasonable efforts to determine the title IV-E eligibility of each youth remaining in or re-entering foster care due to the requirements and flexibilities of sections 4(a) and (c) of Division X (section 4(d)(2)(C) of Division X).

For purposes of meeting the temporary suspension of aging out of foster care and permitting re-entry of youth who have left foster care, title IV-E agencies may use a definition of foster care that does not fully accord with the definition used for the purposes of title IV-E in 45 CFR 1355.20. For example, a title IV-E agency could allow a youth to re-enter foster care without extending title IV-E agency placement and care to that youth, while still providing monthly financial support, age-appropriate supervision, and case management services. However, in order to claim FFP for title IV-E foster care maintenance payments, the definition of foster care at 45 CFR 1355.20 applies.

Therefore, in the example above, that same youth would not be eligible for title IV-E foster care maintenance payments because the arrangement does not meet the 45 CFR 1355.20 foster care definition due to the lack of title IV-E agency placement and care. In these cases, it is possible that the additional Chafee funding may be able to be used to support these youth, as described below in Section A2 of this PI.

- *Temporary suspension of age and education and employment requirements for title IV-E foster care maintenance payments:*³ The title IV-E agency may not determine a youth ineligible for title IV-E foster care maintenance payments due to age or failure to meet the education and employment conditions from December 27, 2020 through September 30, 2021 (section 475(8)(B) of the Act; section 4(a) of Division X). In addition, the title IV-E agency may not find a youth who re-enters foster care during the COVID-19 public health emergency period (defined as April 1, 2020 through September 30, 2021 in section 2(2) of Division X) ineligible for title IV-E foster care maintenance payments solely due to age or the education and employment conditions before October 1, 2021 (section 4(d)(2)(D) of Division X). There is no upper age limit for title IV-E foster care maintenance payments under this provision. The age and education and employment requirements are suspended for all otherwise eligible youth in foster care, regardless of whether the youth is in foster care due to the requirements delaying aging out and allowing re-entry described in the previous bullet.

To be eligible for title IV-E foster care maintenance payments, the youth must meet all other title IV-E foster care eligibility requirements, such as: removal requirements; the applicable AFDC standard; the title IV-E agency having placement and care of the youth; and living in an allowable foster care setting. The definition of “foster care” in 45 CFR 1355.20 applies for the purposes of title IV-E eligibility. Further, the case review requirements in section 471(a)(16) of the Act (which are defined further at section 475(5) of the Act) apply to all children under age 18 who are in foster care, under the placement and care of the title IV-E agency and those children age 18 or older on whose behalf a title IV-E foster care maintenance payment is made. Therefore, the title IV-E agency must ensure that it is meeting the case plan, periodic review, and permanency hearing requirements for these youth.

The same flexibilities for serving young people age 18 and older in title IV-E foster care previously addressed in [ACYF-CB-PI-10-11](#), published July 9, 2010, are available to youth age 18 and older who may be eligible for title IV-E foster care due to the suspension of the age and education/employment criteria. These flexibilities include the option to allow young people age 18 and older to re-enter care through a voluntary placement agreement and the option to use a range of supervised independent living settings, which need not be licensed, as the youth’s foster care placement. For example, a title IV-E agency may determine that when paired with a supervising agency or supervising worker, host homes, college dormitories, shared housing, semi-supervised

³ Many title IV-E agencies previously requested flexibility under the Stafford Act to serve older youth who did not meet title IV-E foster care requirements relating to education and work activities (see ACF-ACYF-CB-PI-20-10). However, P.L. 116-260 explicitly prohibits title IV-E agencies to impose the education and employment conditions as a title IV-E eligibility requirement for youth to remain in or re-enter foster care until September 30, 2021.

apartments, supervised apartments or another housing arrangement meet the supervised setting requirement (meaning it can be an allowable title IV-E placement option for youth age 18 or older in foster care).

- *Notice to youth and public awareness campaign about the option to re-enter foster care:* Until September 30, 2021, the title IV-E agency must provide notice of the option to re-enter foster care to each youth who was formally discharged from foster care due to age during the COVID-19 public health emergency (defined in section 2(1) of Division X, currently January 27, 2020 – April 20, 2021, subject to be extended), and facilitate the voluntary re-entry of those youth into foster care (section 4(b)(2 & 3) of Division X). The title IV-E agency must also conduct a public awareness campaign about the option to voluntarily re-enter foster care for youth under age 22 who aged out of foster care in FY 2020 or 2021 who are otherwise eligible to return to foster care (section 4(b)(4) of Division X).

In conducting the public awareness campaign, CB encourages title IV-E agencies to reach out not only to youth under age 22 who aged out of foster care in FYs 2020 and 2021, but to other youth formerly in foster care, if they now potentially would be eligible to return to foster care or receive other services from the agency.⁴ CB also encourages agencies to partner with foster care alumni/ae to create the public awareness campaigns and to assist with outreach. It is also important to consider the input of child welfare partners, foster parents, relatives, and others when crafting outreach materials. Finally, CB notes that states are in the process of surveying young adults at age 21 as part of the National Youth in Transition Database (NYTD) reporting requirements of the Chafee program; therefore, outreach the agency is already doing for NYTD may provide an opportunity to communicate the opportunity to re-enter foster care at the same time.

Action Required: All state and tribal title IV-E agencies must submit the certification in Attachment C to their [CB Regional Office](#) no later than 45 days from the issuance of this PI providing an assurance that the agency will implement the provisions related to aging out of, re-entry into, and eligibility for title IV-E foster care, as described above.

Title IV-E agencies may claim for title IV-E foster care maintenance payments and allowable associated in-placement administrative costs made or incurred from December 27, 2020 to September 30, 2021 on behalf of youth/young adults in foster care who otherwise would have been eligible for title IV-E except for the age or the education and employment conditions. There is no upper age limit for title IV-E eligibility during this time period (i.e., youth over age 21 could be eligible). To qualify for title IV-E foster care maintenance payments, youth must meet all other title IV-E eligibility requirements.

To receive title IV-E reimbursement of foster care maintenance payments and administrative costs on behalf of eligible youth, agencies must submit claims on the appropriate lines of the CB-496 Title IV-E Programs Quarterly Financial Report. There is no requirement to separately

⁴ Title IV-E agencies may use the Chafee Program funding to pay for costs incurred related to the public awareness campaign, including efforts targeted to the broader group of youth who are eligible for services or financial assistance.

report costs on behalf of youth/young adults that are eligible due to the temporary suspension of age and education and employment requirements.

As described in Section A2 below (*Use of Chafee Funds to Meet Requirements Relating to Preventing Youth From Aging out of Foster Care and To Facilitate Re-entry into Foster Care*), a state or tribe may use the additional Chafee funding provided through Division X to pay for costs associated with meeting the requirements described in this section, including the public awareness campaign, except that no Chafee funds may be used to pay for maintenance costs incurred on behalf of a title IV-E eligible youth. The title IV-E agency must make reasonable efforts to determine the title IV-E eligibility of each youth remaining in or re-entering foster care under the flexibilities and requirements of Division X (section 4(d)(2)(C) of Division X).

See the Chart 1 below for a summary of timeframes for the provisions described in Section A1.

Chart 1: Summary of Provisions and Timeframes for the temporary requirements for Title IV-E agencies to prevent aging of foster care and allow re-entry into foster care for youth over age 18 (section 4 of Division X)		
<u>Timeframe</u>	<u>Provision</u>	<u>Citation</u>
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021⁵</i>	May not require a youth to leave foster care solely due to age	section 475(8)(B) of the Act section 4(a) of Division X
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021</i>	May not find a youth ineligible for title IV-E foster care maintenance payments due to age or failure to meet the education and employment conditions	section 475(8)(B) of the Act section 4(a) of Division X
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021</i>	Permit any youth who left foster care due to age during the COVID-19 public health emergency (currently between January 27, 2020 to April 20, 2021, subject to be extended) to voluntarily re-enter foster care	section 4(b)(1) of Division X

⁵ Section 4(e) of Division X.

Chart 1: Summary of Provisions and Timeframes for the temporary requirements for Title IV-E agencies to prevent aging of foster care and allow re-entry into foster care for youth over age 18 (section 4 of Division X)

<u>Timeframe</u>	<u>Provision</u>	<u>Citation</u>
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021</i>	Youth who re-enter foster care during the emergency period of April 1, 2020 and September 30, 2021 may not be determined ineligible for title IV-E foster care maintenance payments solely due to age or the education/employment conditions	section 4(d)(2)(D) of Division X
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021</i>	Provide notice of the option to re-enter foster care to each youth who aged out during the COVID-19 public health emergency (currently between January 27, 2020 to April 20, 2021, subject to be extended)	section 4(b)(2) of Division X
before October 1, 2021 <i>Provision has no force or effect after September 30, 2021</i>	Public awareness campaign about the option of re-entry for youth who have not attained 22 years of age, who aged out of foster care in FYs 2020 or 2021 (October 1, 2019 through September 30, 2021), and who are otherwise eligible to return to foster care	section 4(b)(4) of Division X
No timeframe <i>Provision has no force or effect after September 30, 2021</i>	The title IV-E agency must continue to ensure the safety, permanency, and well-being of older youth who remain in or who age out of foster care and re-enter foster care and continue transition planning	section 475(5)(H) of the Act; section 4(c) of Division X

Chart 1: Summary of Provisions and Timeframes for the temporary requirements for Title IV-E agencies to prevent aging of foster care and allow re-entry into foster care for youth over age 18 (section 4 of Division X)

<u>Timeframe</u>	<u>Provision</u>	<u>Citation</u>
<p>Costs incurred between December 27, 2020 and September 30, 2021</p> <p><i>Provision has no force or effect after September 30, 2021</i></p>	<ul style="list-style-type: none"> • May use the additional Chafee appropriation for certain costs incurred in meeting the requirements related to preventing youth from aging out of foster care, re-entry into foster care, and protections for youth in foster care. • Must not use the additional Chafee appropriation for specified foster care costs identified in Division X for title IV-E eligible youth, including youth age 18 or older who are eligible due to a temporary waiver of the age or education/employment requirements. • Must make reasonable efforts to determine the title IV-E eligibility of each older youth who remains in or re-enters foster care for the reasons specified in Division X. 	<p>section 4(d)(1), (2)(A), (B), and (C) of Division X</p>

A2: John H. Chafee Foster Care Program for Successful Transition to Adulthood (Chafee program) Additional Funding and Flexibilities

The Supporting Foster Youth and Families through the Pandemic Act appropriates additional funding for the Chafee program and makes temporary changes in eligibility for Chafee services for the time periods detailed below. Also see Chart 2 at end of Section A for a summary of timeframes for the provisions described in Section A2. The additional Chafee grant provides a flexible source of funding that can be used to provide immediate, critically needed assistance to young people.

In the past year, CB has heard from many young people who are in or were in foster care that they have not benefited from other COVID-19 relief assistance, such as stimulus payments or unemployment insurance. Therefore, CB urges all child welfare agencies receiving the additional Chafee grant to consider using at least a portion of the funds to facilitate quick and streamlined access to direct financial support for youth

who were or are in foster care.⁶ Funding under this program can be used as an opportunity to support young people's resilience and to create opportunities for economic, social and educational success for these youth/young adults in FY 2021 and beyond.

The following temporary flexibilities in the use of funds are applicable to grants issued under both the regular FYs 2020 and 2021 Chafee grant and the additional grant for the time periods specified. State and tribal agencies administering the Chafee program may make immediate use of these flexibilities using FY 2021 regular and additional Chafee grants as well as any FY 2020 Chafee grant funding that remains available for expenditure through September 30, 2021. There is no need for the agency to make a special request or to submit any documentation to make use of the flexibilities.

Age: For FYs 2020 and 2021, Chafee funding may be used to provide services and assistance to any otherwise eligible youth or young adult who experienced foster care at age 14 or older and has not yet attained age 27 (section 3(b) of Division X).

Room and Board: From April 1, 2020 through September 30, 2021⁷:

- Agencies administering the Chafee Program may use more than 30 percent of their Chafee funds for room and board payments for a fiscal year (section 3(d)(3)(A) of Division X; see also section 477(b)(3)(B) and (c)(1) of the Act).
- Agencies may use Chafee room and board amounts for any otherwise eligible youth who experienced foster care at age 14 or older and who at the time of receiving services is age 18-26 (section 3(d)(3)(B) of Division X).⁸

Authority to Provide Driving and Transportation Assistance: From April 1, 2020 through September 30, 2021, Division X:

- Specifically authorizes Chafee funds to be used to provide driving and transportation assistance to otherwise eligible youth from ages 15- 26. These costs may be related to obtaining a driver's license, vehicle insurance, driver's education classes and testing fees, practice lessons, practice hours, license fees, roadside assistance, deductible assistance, and assistance in purchasing an automobile (section 3(d)(4)(A) of Division X).
- Creates a cap on the amount provided to each youth/young adult for this driving and transportation assistance at \$4,000 per year (section 3(d)(4)(B) of Division X).
- The driving and transportation assistance must be disregarded for determining the youth's eligibility for any other federal or federally supported assistance. The state or tribe must also take steps to prevent duplication of benefits (section 3(d)(4)(B) of Division X).

⁶ We note that many state Chafee programs provide financial relief to youth/young adults. Some of these programs require that a youth complete an action plan, case plan, submit receipts, or other documentation as a condition of receiving the assistance. CB urges child welfare agencies to review all procedures to determine if they are a barrier to receiving needed assistance timely, specifically as viewed by youth and young adults.

⁷ "COVID-19 public health emergency period" is defined in section 2(2) of Division X.

⁸ Previously, states and tribes signed a certification that room and board assistance was to be provided only to youth who experienced foster care at age 18 or older (section 477(b)(3)(C) of the Act). This limitation is not applicable for the specified time period of April 1, 2020 – September 30, 2021.

- While driving and transportation expenses are ordinarily allowable under the Chafee program without dollar limit for eligible youth up to age 21 or 23, as elected by the state or tribe, under the provisions of Division X the services are also available to youth through age 26 during the period from April 1, 2020 – September 30, 2021. During that time period such expenses made for youth ages 15 - 26, whether paid from the regular or additional Chafee appropriation, are subject to the \$4,000 cap per year per youth.

Use of Chafee Funds to Meet Requirements Relating to Preventing Youth from Aging out of Foster Care and to Facilitate Re-entry into Foster Care

Section A1 of this PI outlines requirements and actions that title IV-E agencies must take to prevent youth from aging out of foster care, to allow re-entry into foster care, and to make youth aware of the option to re-enter foster care. The title IV-E agency must make reasonable efforts to determine the title IV-E eligibility of each youth remaining in or re-entering foster care due to the requirements and flexibilities of sections 4(a) and (c) of Division X (section 4(d)(2)(C) of Division X).

The additional Chafee grant funding may be used to pay for certain costs incurred in meeting the requirements relating to preventing youth from aging out of foster care, re-entry into foster care, and protections for youth in foster care (section 4(d)(1) and (2) of Division X). Such costs may include paying for maintenance payments and case management costs for youth who are not title IV-E eligible and paying for the public awareness campaign related to the opportunity for youth to re-enter foster care.⁹

Other Examples of How Additional Chafee Funds May be Used: Consistent with CB's commitment to youth voice and youth engagement, we encourage child welfare agencies to ask youth and young adults what they need and then, provided consistent with the law, work to provide those identified services and supports in a timely manner.

However, to assist grantees in identifying allowable expenditures to meet the needs of eligible youth while flexibilities remain in effect (until September 30, 2021), CB is providing examples below of allowable use of funds for eligible youth/young adults, consistent with program purposes (for the full text of Chafee program purposes, please see Attachment D):

- Provide unrestricted one-time or monthly direct financial assistance to youth/young adults to assist them in meeting their needs during the pandemic.
- Provide targeted payments and supports to allow youth/young adults to remain at home during the COVID-19 pandemic and public health emergency, when needed to ensure their health and well-being. Individuals requiring such assistance may include youth with medical conditions, pregnant or parenting youth, and youth who need to quarantine due to exposure to COVID-19.

⁹ Title IV-E agencies may use the Chafee Program funding to pay for costs incurred related to the required public awareness campaign, as well as efforts to reach a broader group of youth who are eligible for services or financial assistance through Chafee funding.

- Assist youth in meeting living expenses, including rent, groceries, grocery or meal delivery, and utilities. Such assistance may include helping youth pay back payments and fees and/or paying for expenses for youth/young adults who need to stay home for extended periods of time.
- Purchase cell phones, tablets, laptops, internet service, cell phone plans or other technological tools for young people.
- Provide respite care services and additional support for parenting or pregnant youth.
- Help pay salaries of agency staff who administer and oversee emergency assistance for youth, including fiscal staff responsible for generating and issuing payments paid for the Chafee program.
- Partner with national and state organizations to assist young adults, including for activities relating to locating youth, outreach and marketing.
- Hire youth/ young adults with lived experience in child welfare to provide navigation services to fellow youth/young adults. Navigation services help to connect youth to services and support them as they apply for or engage in those services.
- Employ youth/young adults, at the agency level and/or as part of contractor staff, to provide outreach and support to fellow youth and young adults. This could include paid internships for youth/young adults to help prepare them to re-enter the job market.
- Assist youth in paying medical expenses, including COVID testing and treatment, if these expenses are not already covered by other health insurance or Medicaid.
- Purchase or reimburse youth for personal protective equipment (PPE), including cloth masks.
- Provide services and support to combat young peoples' social isolation during the pandemic. This could include sending gift boxes, cooking kits, puzzles, art and hobby supplies, or other interactive items to connect youth/ young adults.
- Provide outreach and offer any needed assistance to youth who experienced foster care after attaining age 14 and were subsequently reunified and to youth who exited foster care to adoption or guardianship after attaining age 16.
- In addition to conducting required public awareness campaign about the option for youth to re-enter foster care, use social media and other strategies to perform outreach to youth, young adults, and other community providers to make them aware of expanded Chafee funding and available supports.
- Expand contracts with service providers who are currently working with youth and young adults formerly in foster care to provide services through the agencies to which such youth are already connected (e.g., supportive housing providers and Runway and Homeless Youth (RHY) grantees).¹⁰
- Establish websites, hotlines, and other mechanisms to track and provide information on assistance requests.

¹⁰ Please see the [Family and Youth Services Bureau's Website](#) for more information. Agencies must be sure, however, to supplement and not supplant other funds available for the same general purpose (see Child Welfare Policy Manual [CWPM 3.3E Q3](#)).

Agencies should also carefully consider what data and information they may need to determine the effectiveness of their efforts to provide relief and financial assistance and to ensure equity and transparency.

A3: Additional Funding and Temporary Flexibilities for the Education and Training Voucher (ETV) Program

The Supporting Foster Youth and Families through the Pandemic Act provides \$50 million in additional ETV funding and provides temporary flexibilities in the use of funding. This additional funding and flexibility allows agencies to assist youth who had been on track to attend or were attending post-secondary institutions or programs but had their education interrupted due to the COVID-19 pandemic and public health emergency. For many youth the move to virtual classes did not complement their learning paths. Many were forced to “pause” their education due to financial challenges. CB encourages agencies administering the ETV program to use the flexibility offered by the Supporting Youth and Families through the Pandemic Act to provide support to and engage with youth to explore when and how they can reconnect with their educational goals. Youth and young adults may need multiple supportive opportunities to help them reconnect and succeed with their post-secondary education.

The temporary flexibilities detailed below in the use of ETV funds are applicable to grants issued under both the regular FY 2020 and FY 2021 ETV grants and the additional grant provided by Division X. State and tribal agencies administering the ETV program may make immediate use of these flexibilities using FY 2021 regular and additional Chafee grants as well as any FY 2020 ETV grant funding that remains available for expenditure. Agencies do not need to make a special request or to submit any documentation to make use of the flexibilities for expenditures for the applicable time periods. Also see Chart 2 at end of Section A for a summary of timeframes for the provisions described in Section A3.

Ages. For FYs 2020 and 2021, allows ETVs to be provided to youth until they reach age 27 (section 3(b) of Division X).

Maximum Award Amount: From October 1, 2020 to September 30, 2022:

- Increases the maximum ETV award amount in section 477(i)(4)(B) of the Act from \$5,000 to \$12,000 through the end of FY 2022 (section 3(a)(5) of Division X).

Suspension of Certain Requirements under the Education and Training Voucher Program. From April 1, 2020 through September 30, 2021¹¹:

- Allows states and tribes to waive the requirement in 477(i)(3) of the Act that a youth must be enrolled in a post-secondary education or training program or making satisfactory progress toward completing that program if a youth is unable to do so due to the COVID-19 public health emergency (section 3(d)(1) of Division X). (Note, however, that the law does not waive or modify the requirement in section 477(i)(3) of the Act that

¹¹ “COVID-19 public health emergency period” is defined in section 2(2) of Division X.

a youth may participate in the program for no more than 5 years, whether or not consecutive).

Authority to Use Vouchers to Maintain Training and Postsecondary Education. From April 1, 2020 through September 30, 2021:

- Allows additional ETV funding to be used to help support youth to remain enrolled in a post-secondary education or training program, including expenses that are not part of the cost of attendance (section 3(d)(2) of Division X).

Examples of ETV Funding for this purpose: Due to the temporary flexibilities, ETV can be used for expenses youth incur that are not associated with the cost of attendance of the youth/young adult. While states have reported some success in working with post-secondary institutions to include additional items in the cost of attendance specific to individual needs of youth, CB recognizes that there are other expenses related to attending post-secondary institutions that may not be covered in the cost of attendance. Examples of these expenses include but are not limited to laptops or other technology necessary for virtual education; earbuds/earphones; desks, chairs and other items needed to create a learning space; supplies such as printer paper and ink; and tools for internet access (such as broadband internet access, cell phone data cards, routers and WIFI extenders).

CB also reminds agencies that federal law allows ETV funding to be used for advanced degrees, as well as qualifying vocational education, and Associate's and Bachelor's degree programs. Therefore, funding may be used to assist young people in attending law school, a Master's Degree, Ph.D., or other doctoral programs.

A4: Financial and Reporting Information for the Chafee and ETV Program Additional Funding

Eligible Grantees: All states, territories and tribes approved to receive FY 2021 funding for the Chafee Program and/or ETV Program are eligible to receive additional funds, subject to their qualifying for additional funding under the statutory formula. Because eligible grantees were already approved for FY 2021, grantees do not need to submit a separate application for the additional funding.

Additional Allotments: ACF has issued the additional awards to all qualifying Chafee and ETV grantees. Grants were awarded based on the proportionate share of children in foster care in the state or tribe. After reserving 1.5 percent of funding for technical assistance and evaluation activities, as required by the Supporting Foster Youth and Families through the Pandemic Act, \$344 million is available for Chafee additional awards and \$50 million for ETV additional awards. Allotment amounts are provided in Attachments A and B.

Matching Requirements and Limitations: There is no match requirement for the additional funding provided for Chafee and ETV (section 3(a)(4) of Division X).¹² Matching requirements remain in effect for regular FY 2020 and 2021 Chafee and ETV grant awards.

Obligation/Liquidation Period: The Chafee and ETV additional funding provided under the Supporting Foster Youth and Families through the Pandemic Act is available for expenditures over a 2-year period from October 1, 2020 – September 30, 2022 and must be liquidated by December 30, 2022. Note, however, that different time periods (detailed in the previous sections and in Chart 2) apply to specific flexibilities. During the second year of the expenditure period (October 1, 2021 – September 30, 2022), many flexibilities, with the exception of the increase in the maximum ETV award, will no longer be available and regular program requirements must be followed.

Narrative Report on Planned and Actual Use of Additional Chafee/ETV funding: Grantees are required to include information on their planned use of the additional Chafee and ETV funding in the FY 2022 Annual Progress and Services Report (APSR) due June 30, 2021 and information on the actual use of funding in the FY 2023 APSR due June 30, 2022.

The information reported in the FY 2022 APSR should describe the types of assistance to be or being provided to youth/young adults, and the strategies the agency is using to engage youth/young adults. The description should also include the agency's outreach efforts to foster parents, providers, schools, colleges, and the community to make them aware of the additional funding and types of Chafee and ETV support available. States may provide links to policies or other outreach materials as an attachment to the FY 2022 APSR.

CB acknowledges that states and tribes may change their plans for the use of these funds over time to respond to changing community circumstances. Re-programming is allowable as long as activities supported by the funds continue to support in-scope, allowable expenses.

National Youth in Transition Database (NYTD) Reporting: State agencies administering the Chafee program are required to report to NYTD information about youth/young adults of any age who receive an independent living or financial service. Therefore, youth receiving assistance or services through the additional Chafee appropriation are to be included in NYTD reporting.

Financial Management and Reporting: The additional Chafee and ETV awards must be tracked and accounted for separately. Federal funds awarded under these grants must be expended for the purposes for which they were awarded and within the time period allotted.

¹² The additional Chafee and ETV funding is also exempt from the National Youth in Transition Database (NYTD) penalty calculations for April 1, 2020-September 30, 2022 (section 477(c) and (e)(2); section 3(a)(6) of Division X).

Agencies will be required to submit a separate electronic SF-425 for the additional Chafee grant and the additional ETV grant through the Payment Management System (PMS). For more information on gaining access to and using the PMS system, please contact the PMS Help Desk at 1-877-614-5533 or for more information see <https://pms.psc.gov>.

Agencies must submit the SF-425 for expenditures under each additional grant at the end of each year of the 2-year expenditure period. The report is due 90 days after the end of each federal fiscal year (i.e., by December 30, 2021 and December 30, 2022). A negative grant award will recoup any unobligated and/or unliquidated funds reported on the final SF-425.

Use of Funds to Purchase Supplies and Equipment: Agencies that choose to use Chafee and ETV funds for purchase of supplies or equipment, such as cell phones or laptops, must meet specific conditions as outlined in 45 CFR Part 75 described below:

- Identify whether the purchase constitutes supplies or equipment pursuant to the applicable definitions at 45 CFR § 75.2.
- If classified as equipment, regulatory provisions regarding management, use, and disposal (discussed below) must be considered (45 CFR § 75.320).
- If classified as supplies, regulatory provisions regarding use and disposal must be considered (45 CFR § 75.321).
- Assure that any procurement meets applicable state/tribal policies and procedures used for procurements made with non-Federal funds (45 CFR § 75.326).
- Address whether use of the cell phones or other technological devices will continue to serve a program purpose over time and either recover or repurpose these devices when a program purpose is no longer served.
- Assure that purchase and operation costs are appropriately cost allocated to all benefiting programs pursuant to the applicable regulations at 45 CFR § 75.405 and § 75.453.

Used Equipment: When equipment funded by the Department of Health and Human Services (HHS) has reached the end of its useful life, the title IV-E agency may use the items in other activities funded by the original program or other HHS programs (see disposition rules for equipment at 45 CFR § 95.707 and § 75.320). Title IV-E agencies may dispose of this equipment by giving it to other children or youth in foster care, their parents or foster parents being served under title IV-E, or other federal child welfare programs, as deemed appropriate and beneficial.

Redistributions: As with the Chafee and ETV grants made under the regular annual appropriation, the FY 2021 additional Chafee and ETV funds are subject to redistribution if any funding remains unexpended at the end of the two-year expenditure period (section 477(d)(5) of the Act). If ACF identifies unused funds following the close-out of a grant year, these funds will be reallocated to states or participating tribes that request additional funds for FY 2023.

See Chart 2 below for a summary of timeframes for the provisions described in Section A2.

Chart 2: Summary of Chafee/ ETV Provisions from Division X		
<u>Timeframe</u>	<u>Provision</u>	<u>Citation</u>
October 1, 2020 to September 30, 2022	Maximum ETV award amount increased to \$12,000	section 477(i)(4)(B) of the Act section 3(a)(5) of Division X
October 1, 2019 to September 30, 2021	Chafee and ETV services and assistance to eligible youth until age 27	section 3(b) of Division X
April 1, 2020 to September 30, 2021	Waive the requirement that a youth must be enrolled in a post-secondary education or training program or making satisfactory progress toward completing that program if a youth is unable to do so due to the COVID-19 public health emergency	section 477(i)(3) of the Act section 3(d)(1) of Division X
April 1, 2020 to September 30, 2021	Support youth to remain enrolled in a post-secondary education or training program, including expenses that are not part of the cost of attendance	section 3(d)(2) of Division X
April 1, 2020 to September 30, 2021	Use Chafee room and board amounts for otherwise eligible youth who are aged 18-26 and experienced foster care at age 14 or older	section 3(d)(3)(B) of Division X
April 1, 2020 to September 30, 2021	Provide an otherwise eligible youth aged 15-26 with up to \$4,000 per year in Chafee funds for driving and transportation assistance	section 3(d)(4)(B) of Division X

Section B: Emergency Funding for the MaryLee Allen Promoting Safe and Stable Families Program

Overview: Division X appropriates \$85 million in FY 2021 emergency supplemental funding for the MaryLee Allen Promoting Safe and Stable Families Program (PSSF) under title IV-B, subpart 2 of the Act, in addition to any amounts otherwise appropriated (section 6(a) of Division X). Of this amount \$10 million is reserved for the Court Improvement Program (see section 7(a) of Division X and Section C of this program instruction). Consistent with section 436(b)(3) of the Act, 3 percent (\$2,550,000) of the \$85 million supplemental appropriation is reserved for tribes. The remaining balance of \$72,450,000 is to be used for PSSF grants to states and territories.

Eligible Grantees: All states, territories and tribes approved to receive FY 2021 PSSF funding are eligible to receive supplemental PSSF grants. Because eligible grantees

were already approved for FY 2021 funding, no separate application for the supplemental funding is required.

Supplemental allotments: ACF will issue the supplemental awards to all eligible grantees as soon as possible. Grants will be awarded according to the statutory formula in section 433 of the Act. Estimated allotments are not yet available but when finalized will be disseminated and then posted on the CB website as Attachment E to this PI.

Approved Activities: The supplemental PSSF funds may be used for the same purposes as the regular annual PSSF grant, i.e., to provide community-based family support, family preservation, family reunification and adoption promotion and support services, consistent with the purposes and definitions in sections 430 and 431 of the Act. There are no other specific programmatic requirements or limitations on use of the emergency supplemental funding. The Children's Bureau encourages child welfare agencies to reach out to families and community-based agencies to identify the unmet needs for services or supports that families are experiencing during the pandemic, so that funds may be used to address those needs.

Project, Obligation, and Liquidation Period: These supplemental funds are for fiscal year (FY) 2021. Thus, the funds have a project period of October 1, 2020 – September 30, 2022. The funding must be obligated by September 30, 2022 and liquidated by December 30, 2022.

Matching Requirements and Limitations: Funds for this supplemental grant are awarded with a **100 percent** Federal Financial Participation (FFP) rate for program costs; therefore, no match (non-federal share) is required to receive the supplemental PSSF funds (section 6(b) of Division X). Matching requirements remain in effect for the regular 2021 PSSF grant awards.

Administrative Cost Limitation: In accord with section 434(d) of the Act, states may spend no more than 10 percent of the combined total costs for their PSSF grant program (including the federal funds received under this FY 2021 supplemental award and the grantee's regular FY 2021 PSSF federal allotment and the 25 percent non-federal match on the regular grant award) on administrative costs. The administrative cost limitation under the PSSF program is not applicable to tribal grantees.

Instruction for Reporting on Planned and Actual Use of Supplemental PSSF funds.

Narrative Report on Planned and Actual Use of supplemental funding:

Title IV-B grantees are required to include information on their planned use of the supplemental PSSF funding in the 2022 APSR due June 30, 2021 and information on the actual use of funding in the 2023 APSR due June 30, 2022.

CB acknowledges that states and tribes may change their plans for use of these funds over time in response to changing community circumstances. Re-programming is allowable as long as activities supported by the funds continue to support in-scope, allowable expenses.

Financial Management and Reporting: The supplemental PSSF funds will be awarded separately from the regular FY 2021 PSSF grant and must be tracked and accounted for separately to ensure compliance with specific requirements and allowances. Federal funds awarded under this grant must be expended for the purposes for which they were awarded and within the time period allotted.

Title IV-B agencies are required to submit an electronic SF-425 Federal Financial Report through the Payment Management System (PMS) to report expenditures at the end of each fiscal year (i.e., by December 30, 2021 and December 30, 2022). A negative grant award will recoup any unobligated and/or unliquidated funds reported on the final SF-425 for the title IV-B which will be due on December 30, 2022.

Section C: Court Improvement Program Supplemental funding

Overview: From the \$85 million FY 2021 emergency supplemental appropriation for the MaryLee Allen Promoting Safe and Stable Families program, Division X reserves \$10 million in FY 2021 supplemental funding for the Court Improvement Program (CIP) authorized in section 438 of title IV-B, subpart 2 of the Act, in addition to any amounts otherwise appropriated (section 7(a) of Division X). Of this amount, \$500,000 is reserved for Tribal CIP grants which are periodically awarded through a competitive discretionary grant process. The remaining \$9.5 million will be awarded as a supplement to the State CIP Data grant.

The \$500,000 in additional Tribal CIP funding will be distributed as supplements to the current seven Tribal CIP grantees. CB will contact the eligible grantees directly to provide instructions on actions needed to receive funds. The following section provides information and instructions about the \$9.5 million in supplemental funds for state CIP grantees.

Eligible Grantees: All State Courts approved to receive the FY 2021 CIP Data Grant are eligible to receive these funds. No separate application for funding is required (section 7(b)(3)(A) and (B) of Division X).

Supplemental allotments: ACF issued supplemental awards to all eligible grantees during the week of March 8, 2020. Grants were awarded according to the formula specified in section 7(b) of Division X. Each grantee will receive a base amount of \$85,000 and, after the sum of all states' base amounts is subtracted from the total appropriation of \$9.5 million, a percentage of the remainder based on the state's proportionate share of children under age 21. Allotment amounts are provided in Attachment F.

Allowable activities: The supplemental CIP funds must be used to address needs stemming from the COVID-19 public health emergency to ensure the safety, permanence, and well-being needs of children are met in a timely and complete manner. Courts must collaborate with child welfare agencies on the local and state levels and jointly plan for the collection and sharing of all relevant data and information to ensure those outcomes (sections 7(b)(1)(B) & 7(c) of Division X and sections 438(a)(3) and 438(b)(1)(A) of the Act).

Use of funds may include:

- Technology investments to facilitate the transition to remote hearings for dependency courts when necessary as a direct result of the COVID-19 public health emergency;
- Training for judges, attorneys, and caseworkers on facilitating and participating in remote hearings that comply with due process and all applicable laws, ensure child safety and well-being, and help inform judicial decision-making;
- Programs to help families address aspects of the case plan to avoid delays in legal proceedings that would occur as a direct result of the COVID-19 public health emergency; and
- Other purposes to assist courts, court personnel, or related staff related to the COVID-19 public health emergency (section 7(c) of Division X).

As described in detail in [ACYF-CB-PI-20-12](#), two key areas that CIPs can support to ensure safety, permanence, and well-being are quality hearings and legal representation. It is critical that judges, lawyers, and clients have the resources necessary to participate in these aspects of their cases, whether hearings are conducted remotely or in person.

CIP grantees should work with their multidisciplinary task force members to identify areas to be supported with the FY 2021 supplemental funding. However, to assist CIPs in identifying potential uses of funds, the following are additional examples of allowable uses of funding:

- Provide support for remote operations such as hearings, legal representation, and other case activities such as family team meetings.
- Supports to address inequities/disproportionalities in service delivery or access for clients, for example, by supporting internet access for clients or communities where it is lacking.
- Provide support for electronic case file applications, secure electronic document transmission, and electronic notice systems.
- Address case-specific barriers to permanency, safety, or well-being such as virtual alternatives to services.
- Implement systems to allow rapid direct communication with clients or resource parents such as mobile applications or emergency notification systems.
- Provide support for safe in-person operations (e.g. personal protective equipment, time certain docketing systems).
- Pay for staff or consultants to work on policy, regulations, or court rules around COVID-19.
- Provide training to judges, attorneys or partners on pertinent topics relating to working with children and families during the pandemic.

In collaborating with the child welfare agencies and tribes on planned use of funds, CIPs should ensure that efforts are not duplicating efforts funded by state agencies or tribes under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) or other sections of the *Consolidated Appropriations Act, 2021*.

Project, Obligation, and Liquidation Period: These supplemental funds are for FY 2021. Thus, the funds have a project period of October 1, 2020 – September 30, 2022.

The funding must be obligated by September 30, 2022 and liquidated by December 30, 2022.

Matching Requirements and Limitations: Supplemental funds for this program are awarded with a **100 percent** Federal Financial Participation (FFP) rate for program costs; therefore, no match (non-federal share) is required to receive these supplemental funds (section 7(b)(3)(E) of Division X). Matching requirements remain in effect for the regular FY 2021 CIP Basic, Data and Training grants.

Use of Funds to Purchase Supplies and Equipment: CIPs that choose to use their CIP grant to purchase supplies or equipment, such as smart phones or laptops, must meet specific conditions as outlined in 45 CFR Part 75 described below:

- Identify whether the purchase constitutes supplies or equipment pursuant to the applicable definitions at 45 CFR § 75.2.
- If classified as equipment, regulatory provisions regarding management, use, and disposal (discussed below) must be considered (45 CFR § 75.320).
- If classified as supplies, regulatory provisions regarding use and disposal must be considered (45 CFR § 75.321).
- Assure that any procurement meets applicable state/tribal policies and procedures used for procurements made with non-Federal funds (45 CFR § 75.326).
- Address whether use of the equipment will continue to serve a program purpose over time and either recover or repurpose these devices when a program purpose is no longer served.
- Assure that purchase and operation costs are appropriately cost allocated to all benefiting programs pursuant to the applicable regulations at 45 CFR § 75.405 and § 75.453.

Used Equipment: When equipment funded by the Department of Health and Human Services (HHS) has reached the end of its useful life, the grantee may use the items in other activities funded by the original program or other HHS programs (see disposition rules for equipment at 45 CFR § 95.707 and § 75.320). CIPs may dispose of this equipment by giving it to other child welfare stakeholders, as deemed appropriate and beneficial.

Indirect Costs: If the CIP wishes to receive reimbursement for indirect costs within its allotment, it must have an approved indirect cost rate with the cognizant Federal agency. The cognizant Federal agency is that Federal agency that provides the most funds to the court. If a court has not been assigned a cognizant agency, it should work with the Federal agency from which it receives the largest amount of funds to negotiate and receive approval of indirect cost proposals.

Instruction for Reporting on Planned and Actual Use on Supplemental CIP funds.

Narrative Reports on Use of CIP COVID-19 Supplemental funding:

State CIP grantees should include a description of the use of the supplemental funding as part of their Self-Assessment and Strategic Plan submissions as described in [ACYF-CB-PI-20-12](#).

For the Self-Assessment, where projects were supported by the supplement, include the text ‘COVID’ somewhere in the project description. This will allow CB to use a word search for data analysis. Address any efforts supported by the supplement that do not fit into other sections in the response to section IV, question 4.

For the Strategic Plan, CIPs may describe planned uses either as augmenting other projects or as a stand-alone. Include the text ‘COVID’ in the Strategic Plan for projects supported by the supplement.

As noted in [ACYF-CB-PI-20-12](#) and [ACYF-CB-PI-21-02](#), the Self-Assessment and Strategic Plan are due to the Children’s Bureau Regional Office by June 30, 2021.

Financial Management and Reporting: The supplemental CIP Data grant will be awarded separately from the regular FY 2021 CIP Data grant and must be tracked and accounted for separately to ensure compliance with specific requirements and allowances. Federal funds awarded under this grant must be expended for the purposes for which they were awarded and within the time period allotted.

CIP grantees are required to submit an electronic SF-425 Federal Financial Report through the Payment Management System (PMS) to report expenditures at the end of each fiscal year (i.e., by December 30, 2021 and December 30, 2022). A negative grant award will recoup any unobligated and/or unliquidated funds reported on the final SF-425 for the title IV-B which will be due on December 30, 2022.

Section D: Family First Prevention Services Program Pandemic Flexibility

Information. Section 5 of Division X temporarily increases the federal reimbursement rate for the title IV-E Prevention Services Program. During the COVID–19 public health emergency period (April 1, 2020 through September 30, 2021), the costs of title IV-E prevention services and allowable costs for administration and training allocated to the title IV-E prevention program are reimbursable at **100 percent FFP** (section 474(a)(6)(A)(i) and (B) of the Act; section 5 of Division X). See page 9 of [ACYF-CB-PI-18-09](#) for more information about allowable administrative costs under the title IV-E prevention program.

Division X does not make any other changes in the requirements for the title IV-E Prevention Services Program. To qualify for funding, a title IV-E agency must have an approved title IV-E Prevention Plan.

CB and the ACF Office of Grants Management are working to have the necessary computer programming changes completed on Form CB-496 in the On-Line Data Collection (OLDC) System to reflect the 100 percent FFP rate for the applicable quarters and will issue supplemental awards for title IV-E agencies who submitted claims in earlier periods qualifying for the enhanced FFP rate.

ACF does not anticipate that grantees approved to operate the title IV-E Prevention Services Program will need to take any special action to receive the enhanced FFP rate. Should any action be required, ACF Office of Grants Management staff will contact the affected title IV-E agencies directly and provide needed instructions.

Section E. Adjustment of Baselines for Family First Transition Act Funding Certainty Grants

Information: Section 9 of Division X amended section 602(c)(2) of Division N of the *Further Consolidated Appropriations Act, 2020* (P.L. 116-94) to create a hold harmless provision so as not to penalize title IV-E agencies that were operating a title IV-E child welfare waiver demonstration program on September 30, 2019 for the temporary FMAP increases made due to the COVID-19 public health emergency when calculating baselines for Family First Transition Act funding certainty grants. This change necessitated a revision to the Funding Certainty Baseline table previously issued as Attachment A with Program Instruction [ACYF-CB-PI-20-08](#). An Adjusted Qualifying Agency Funding Certainty Baselines table for FY 2020 was provided as Attachment to [ACYF-CB-IM-21-05](#). CB has also now prepared a table displaying the *estimated* Funding Certainty Baselines for FY 2021 and both tables are displayed as Attachment G to this PI. The FY 2021 estimated baseline amount includes a presumption that the temporary FMAP increase of 6.2 percentage points will remain in effect through the end of FY 2021. (The temporary FMAP increase is in effect during the COVID-19 public health emergency from January 27, 2020 through April 20, 2021, [subject to be extended](#).¹³) If the emergency declaration ends before the 4th quarter of FY 2021, ACF will alert grantees to any change in the baseline for FY 2021.

CB and ACF Grants Management are working to make needed revisions to reflect the changes in the Funding Certainty Baseline amounts displayed on Form CB-496 Part 3 in section F in the On-Line Data Collection (OLDC) system. No action is needed on the part of title IV-E agencies. ACF will use the updated FY 2020 baseline amount to calculate the initial Funding Certainty Grant amount for FY 2020 and will provide written notification to each agency on the status of its Funding Certainty Grant.

Paperwork Reduction Act:

Under the Paperwork Reduction Act of 1995 (P.L. 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless

¹³ “COVID-19 public health emergency” is defined in section 2(1) of Division X.

it displays a currently valid OMB Control Number. The Control Number for this OMB approved information collection is 0970-0426, approved through September 30, 2023.

Inquiries To: [Children's Bureau Regional Program Managers](#)

/s/

Amanda Barlow
Acting Commissioner
Administration on Children, Youth
and Families

Attachments

Attachment A: John H. Chafee Program for Successful Transition to Adulthood Additional Funding Allotments

Attachment B: Educational and Training Voucher Program Additional Funding Allotments

Attachment C: Title IV-E Certification: Temporary Changes Related to Aging Out of and Re-entry into and Eligibility for Title IV-E Foster Care for Older Youth

Attachment D: Program Purposes of the John H. Chafee Foster Care Program for Successful Transition to Adulthood

Attachment E: MaryLee Allen Promoting Safe and Stable Families Program Supplemental Funding Allotment [To be added when available]

Attachment F: Court Improvement Program Supplemental Funding Allotments

Attachment G: Funding Certainty Baseline for FY 2020 and Estimated Baseline for FY 2021

Fiscal Year 2021 Additional Allotments to States and Tribes
John H. Chafee Foster Care Program
for Successful Transition to Adulthood
Authorized by Division X of Public Law 116-260
(Supporting Foster Youth and Families through the Pandemic Act)

State	2021 Allotment
Alabama	\$ 4,659,625
Alaska	\$ 2,319,740
Arizona	\$ 10,452,735
Arkansas	\$ 3,325,310
California	\$ 41,280,026
Colorado	\$ 4,302,679
Connecticut	\$ 3,491,294
Delaware	\$ 464,109
District of Columbia	\$ 541,461
Florida	\$ 19,791,518
Georgia	\$ 10,367,523
Hawaii	\$ 1,374,601
Idaho	\$ 1,411,666
Illinois	\$ 14,758,834
Indiana	\$ 13,139,286
Iowa	\$ 4,798,212
Kansas	\$ 6,475,743
Kentucky	\$ 7,370,957
Louisiana	\$ 3,157,715
Maine	\$ 1,688,842
Maryland	\$ 3,094,061
Massachusetts	\$ 7,946,259
Michigan	\$ 9,403,852
Minnesota	\$ 6,768,259
Mississippi	\$ 3,352,706
Missouri	\$ 10,220,877
Montana	\$ 2,978,840
Nebraska	\$ 2,796,128
Nevada	\$ 3,658,889
New Hampshire	\$ 987,038
New Jersey	\$ 3,569,451
New Mexico	\$ 1,874,163
New York	\$ 12,961,217
North Carolina	\$ 9,042,878
North Dakota	\$ 1,210,229

Fiscal Year 2021 Additional Allotments to States and Tribes
John H. Chafee Foster Care Program
for Successful Transition to Adulthood
Authorized by Division X of Public Law 116-260
(Supporting Foster Youth and Families through the Pandemic Act)

State	2021 Allotment
Ohio	\$ 13,203,746
Oklahoma	\$ 6,692,519
Oregon	\$ 5,542,398
Pennsylvania	\$ 12,509,999
Puerto Rico	\$ 2,257,698
Rhode Island	\$ 1,772,639
South Carolina	\$ 3,642,774
South Dakota	\$ 1,374,601
Tennessee	\$ 7,485,372
Texas	\$ 25,322,153
Utah	\$ 2,004,694
Vermont	\$ 1,003,153
Virgin Islands	\$ 116,027
Virginia	\$ 3,968,295
Washington	\$ 8,752,957
West Virginia	\$ 5,856,961
Wisconsin	\$ 6,157,504
Wyoming	\$ 800,911
State Subtotal \$ 343,501,124	

State Code	Indian Tribal Organization	2021 Allotment
AZ	Pascua Yaqui Tribe of Arizona	\$ 139,628
AZ	Salt River Pima Maricopa Indian Community	\$ 148,220
CA	Tolowa Dee-ni' Nation (Smith River Rancheria)	\$ 28,916
KS	Prairie Band of Potawatomi	\$ 23,397
NE	Santee Sioux Nation	\$ 28,814
OR	Confederated Tribe of Warm Springs	\$ 92,984
WA	Port Gamble S'Klallam Tribe	\$ 36,917
Tribal Subtotal \$ 498,876		
TOTAL \$ 344,000,000		

The Family First Prevention Services Act of 2018 A Guide for the Legal Community

December 2020

The Family First Prevention Services Act of 2018 (Family First Act or Family First) significantly changes how the child welfare system is funded and operates. Prioritizing the importance of children living with families, Family First includes a number of provisions related to prevention services, foster care placement, and transition from care.

Purpose

In 2019, the American Bar Association Center on Children and the Law surveyed over 500 legal professionals about what they needed to better understand and implement the Family First Act. Most respondents (84%) said they would like an overview of the Act and clearer information about how it affects legal practice.

This Family First legal guide seeks to meet that request. It is designed to help attorneys, judges, magistrates, and court personnel:

- ❑ understand how the Family First Act changes federal child welfare law;
- ❑ identify opportunities to use the Act in legal advocacy and judicial decision making; and
- ❑ support implementation in a way that best serves children and families.

Organization

The guide is organized chronologically following a family's potential involvement with the child welfare system. That chronology is grouped in three sections with additional provisions in a fourth section. Additional resources are included in four appendices.

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Using this Guide

Each section highlights opportunities to use the Family First Act to inform legal advocacy and judicial decision making. For some topics, these opportunities are separated by role: child welfare agency counsel, child's counsel, parent's counsel, and judicial decision maker. In others, they are combined in one comprehensive list. These recommended advocacy efforts and decision-making considerations are not exhaustive but are a starting point for the practicing child welfare professional. Readers can also review the guidance for each advocate type to identify approaches that may apply to them and to understand others' roles.

In addition, the legal community also should seek regular input on implementation from individuals with personal experience in child welfare, including as children, youth, parents, kin caregivers and resource families. Individuals with lived experience have a wealth of expertise to offer on the implementation of Family First Act provisions and their perspectives should be sought in a supportive environment where they can offer ideas safely and engage with ongoing reforms as part of an implementation team.

The opportunities and changes under Family First provisions affect child welfare practice in the 50 United States, District of Columbia, Puerto Rico, U.S. Virgin Islands, and Tribal Nations. This guide refers to these jurisdictions as "states and tribes," with clarification where flexibility is available for tribes.¹

This guide is designed to strengthen the legal community's understanding and capacity to use provisions of the Family First Act. To provide a context for a conversation about the legal implications of implementation that can best be addressed through partnerships between the child welfare agency and service provider community working with families, attorneys, and judges in advance, the ABA Center on Children and the Law also has developed a [*Tool for Engaging the Legal Community in Implementing the Family First Act*](#).

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This Family First Legal Guide is dedicated to our former Associate Director, Anne Marie Lancour, who guided early steps in its creation and whose memory continues to inspire us.

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a. Prevention services

"Given the intense emotional trauma associated with entering foster care, as well as the cost to both state and federal governments, there is great interest in identifying ways to promote family stability, reduce foster care entries and lengths of stay, and facilitate reunification and kinship placements." —U.S. House of Representatives

What does this provision do?

The Family First Act provides new opportunities to increase supports that prevent a child's entry into foster care by providing select mental health, substance use, and parenting services that are now 50% reimbursable through federal funding.²

The law links availability of these funds to certain types of evidenced-based services and to compliance with other portions of the Act. States and tribes are not required to participate in these federal prevention services, however. Additionally, states and tribes may choose to provide a range of separate services that may not fall within these specific categories and are not eligible for federal reimbursement.

Why was this provision included?

Historically, the federal government has only provided Title IV-E financial support to states after a child's removal from the family and placement in foster care. At the federal level, bipartisan leadership agreed to shift toward investing in supporting children within their families to prevent the need for removals when possible. A 2016 House Committee on Ways and Means Report provided some of the legislative intent that shaped this provision:

"The public and human cost of removing abused and neglected children from their birth families and caring for them in foster families, group homes, or institutions is substantial. State and federal expenditures in foster care totaled more than \$8 billion in fiscal year 2014 under title IV-E of the Social Security Act... The majority of children who enter foster care end up either reunifying with their parents or principal caretakers (51%) or going to live with a relative or guardian (15%). Given the intense emotional trauma associated with entering foster care, as well as the cost to both state and federal governments, there is great interest in identifying ways to promote family stability, reduce foster care entries and lengths of stay, and facilitate reunification and kinship placements."³

How does this provision work?

Eligibility for services

Services may be offered for children who are "candidates for foster care," for their parents and caregivers, and for pregnant or parenting foster youth. (This description's use of "pregnant or parenting" aligns with the statutory text. Elsewhere, the legal guide refers to "expectant and parenting" youth to include fathers.) Family First defines "child who is a candidate for foster care" to mean "a child who is identified in a prevention plan under section 471(e)(4)(A) as being at imminent risk of entering foster care . . . but who can remain safely in the child's home or in kinship placement as long as services or programs specified in section 471(e)(1) that are necessary to prevent the entry of the child into foster care are provided."⁴

Eligibility is not limited to youth facing potential removal from their biological home of origin; children living in informal, kinship caregiver arrangements, as well as children whose adoptions or guardianships are at risk of dissolution are potential candidates under Family First's broad definition of candidacy. Additionally, individuals are eligible for prevention services regardless of whether the child meets Title IV-E income eligibility terms as required for federal support of foster care maintenance payments for a child.

The U.S. Department of Health and Human Services has urged states and tribes to further develop and adopt definitions of candidacy for foster care that reflect the needs and goals of their jurisdiction.⁵ For information on state statutory and regulatory definitions of "candidate for foster care," see Appendix B.

The prevention plan for the child must:

- ☐ identify the foster care prevention strategy that allows the child to remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver; and
- ☐ list the services to be provided to the child or to eligible caregivers to ensure the success of that prevention strategy.

The prevention plan for a pregnant or parenting foster youth must:

- ☐ be included in the youth's foster care case plan;
- ☐ list the services to be provided to or on behalf of the youth to ensure the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a

parenting foster youth) to be a parent; and

- ❑ describe the foster care prevention strategy for any child born to the youth.

Services included

Under these Family First provisions, state and tribal agencies can seek federal reimbursement for prevention services that fall into three categories:

- ❑ in-home parent skill-based programs;
- ❑ mental health services; and
- ❑ substance abuse prevention and treatment services.

No matter the category, eligible services must meet certain requirements, with evidence they are successful programs. The service must be:

- ❑ described as part of a state's Title IV-E Prevention Plan;
- ❑ accompanied by a manual outlining the service's components;
- ❑ approved by the Title IV-E Prevention Services Clearinghouse⁶ or be eligible for transitional payments "until the Clearinghouse can review and create a program or service, if a state submits sufficient documentation;"⁷
- ❑ trauma-informed; and
- ❑ rendered by a "qualified clinician."

Prevention services may be offered for 12 months per "episode," though sequential 12-month periods are permitted. The requirements for these services do not prohibit a state from offering other prevention services through state and local dollars or the more limited federal funding available through Title IV-B, Subpart 2, the Promoting Safe and Stable Families Program.⁸ Indeed, a broad service array responsive to specific community needs is encouraged and Family First funding may be just one funding stream used to support a more comprehensive service array.

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ Advise caseworkers about Family First's opportunities and the value to children and their families of fully using prevention services before considering removal in cases involving mental health, substance use, or parental support needs.
- ❑ Educate the court and stakeholders about eligible [prevention services](#) offered in your jurisdiction.

- ❑ If a petition for removal must be filed after the agency provided services, prepare evidence of prevention services offered and rendered as an element of the agency's reasonable efforts to prevent removal.

Child's counsel

- ❑ If you are appointed after a petition for removal has been filed, ask whether prevention services were offered before removal—including services for the parent, kinship caregiver, or child. If appropriate for your client's goals, advocate for prevention services as an alternative to removal.
- ❑ If the child is removed, request a copy of the family's prevention plan to review what the agency offered and whether reasonable efforts have been made to prevent removal especially in cases involving mental health, substance use, and parenting skills challenges (if necessary, request the prevention plan through the discovery process).
- ❑ If the child is removed, investigate whether kinship placement is possible that could be supported using prevention services as an alternative to foster care or that could be a kinship foster placement. Ask the child, if developmentally appropriate, to help identify possible kin resources.
- ❑ If the child is removed, ask whether placement in a family-based substance abuse treatment facility is feasible (described further in Part II.a, p. 9).
- ❑ If you represent an expectant or parenting teen in foster care, ask if the teen is interested in prevention services and advocate accordingly in the child welfare case.

Parent's counsel

- ❑ If you are appointed when prevention services are provided, work with your client to ensure those services meet the client's needs and are voluntarily accepted.
- ❑ If you are appointed after a petition for removal is filed, advocate for prevention services to be offered as an alternative to removal—including services for the parent, kinship caregiver, or the child.
- ❑ If federally funded prevention services were used before the child's removal, ask whether they were provided with fidelity (e.g., according to written policy, frequency of service, targeted group).
- ❑ If prevention services were not offered before removal and the case involves mental health, substance use, or parenting skills, consider whether a fair hearing is warranted pursuant to federal regulations. These regulations provide that failure to offer or render prevention services is a possible basis for requesting an administra-

tive hearing before an impartial hearing officer.⁹

- ❑ If the child is removed, request a copy of the family's prevention plan to review what the agency offered and whether reasonable efforts have been made to prevent removal (if necessary, request through the discovery process). If reasonable efforts were not made, request a "no reasonable efforts" finding at the first hearing, and an order returning the child to the family with appropriate services.
- ❑ Ask your client to identify kin that may serve as a placement resource before or after removal.

Judicial decision maker

- ❑ When reviewing a petition for removal, ask if the agency made reasonable efforts to prevent removal, which may include providing federally supported prevention services.
 - Invite discussion and debate among parties about whether the reasonable efforts finding is appropriate.
 - If reasonable efforts have not been made, consider court orders for prevention services that may allow the child to remain safely at home.
 - If reasonable efforts have been made, be specific about what measures constituted reasonable efforts when making written findings in the case.
- ❑ If removal occurs, ask about the agency's diligent efforts to locate kin and support those placements. Consider court orders to refer kinship families to state or local kinship navigator programs and other supports as appropriate.
- ❑ In cases involving expectant or parenting youth in foster care, ask if the youth is interested in prevention services. Also determine what services can be provided for children in those teens' care.

How can the legal community support Family First implementation?

- ❑ Participate in your jurisdiction's Family First task forces, subcommittees, or implementation teams.
 - Understand what prevention services are available, which are under development, and what the status of implementation is in your jurisdiction. Advocate for a broad service array that uses federal funding as a starting point (rather than a limit) for service options.
 - How will your jurisdiction define a "candidate for foster care" eligible for prevention services? Learn



Juvenile Justice Considerations

States and tribes may choose to define "candidates" for foster care prevention services to include youth in the juvenile justice system who are also at "imminent risk" of entering foster care. For example:

- ❑ Maryland recognizes "the intersection between those who have experienced maltreatment and engage in delinquent behaviors and could benefit from prevention services to avoid placement."¹ Maryland includes children and youth with current state juvenile services involvement as "candidates" for Family First prevention services in the state's Prevention Services Plan.
- ❑ Kansas includes youth with some involvement in the juvenile justice and child welfare systems as those potentially eligible for prevention services.²
- ❑ Utah permits juvenile justice caseworkers to use a risk assessment tool to identify a youth's risk of entry into foster care.³

Juvenile justice practitioners can support effective Family First implementation by:

- ❑ joining discussions about how your state or tribe will define candidates for foster care prevention services; and
- ❑ ensuring prevention services provide for the needs of juvenile justice system-involved youth who also face removal from home.

Juvenile Justice References

Campaign for Youth Justice. [*Youth Justice and the Family First Prevention Services Act: Insights from a Convening of State and National Youth Justice Advocates*](#), July 2020.

ACT4JuvenileJustice, Campaign of the National Juvenile Justice, and Delinquency Prevention Coalition. [*Family First Prevention Services Act: Opportunities and Risks for Youth Justice and Campaigns to End Youth Incarceration*](#), July 2019.

Sources

¹ Maryland Department of Human Services, Social Services Administration. [*Family First Prevention Services Act: Title IV-E Prevention Plan*](#), 2020, 9 (approved by the Children's Bureau in February 2020).

² See Kansas Department for Children and Families. [*Kansas Prevention Plan: Five-Year Plan 2020-2024*](#), 2020 (approved by the Children's Bureau in May 2020).

³ See Utah Department of Human Services, [*Utah Title IV-E Prevention Program Five-Year Plan FFY 2020-2024*](#), 2020, 27 (approved by the Children's Bureau in December 2019).

what criteria the agency will use to determine if a family will benefit from prevention services.

- Collaborate with agency and system partners to determine whether attorneys will be assigned at the agency during prevention services and whether counsel for children or parents will be appointed during preresidential prevention services, and what advantages such appointment may provide.

Agency counsel

- Consider whether agency counsel will review individual determinations of prevention services eligibility.
- Offer agency attorney perspectives on whether all caseworkers can make determinations about prevention services or whether there may be distinctions between “prevention caseworkers” and others.
 - ◆ If these roles are distinct, does the same worker remain involved after a child enters foster care?
 - ◆ Do they have different reporting requirements, case obligations, and duties?

Children’s counsel

- Explore how children’s counsel can best assist expectant and parenting youth in foster care in accessing timely provision of prevention services and ensuring that the baby remains with the parent once born.
- Explore opportunities to support prepetition legal representation for homeless youth who may be eligible for services and support provided within the child welfare system.

Parent’s counsel

- A number of jurisdictions offer preremoval legal representation of parents when legal issues such as housing, domestic violence, public benefits, and education are the catalyst for agency involvement rather than safety concerns. Though not a part of the Family First Act, Title IV-E funding is now available for this type of prepetition legal representation, which can keep the family together, keep children in the home, and prevent the need for foster care.¹⁰
 - ◆ Explore with child welfare stakeholders and local legal service providers whether to access IV-E funding for this area.

- ◆ If so, ensure the participation of parent attorneys in developing the agency’s relevant referral process.

Attorney funding considerations

- Develop and amend any court rules regarding appointment, billing structures, or other logistical criteria as needed.
- Consider how the availability of Title IV-E funds for agency, child, and parent legal representation may factor into these decisions.¹¹
- Explore as a team how the agency can ensure prevention services are accepted and provided voluntarily.
 - Consider whether the approach or understanding by parents may differ in situations where the child remains at home and situations where the child moves in with kin while prevention services are offered.
 - Discuss the agency practice around signing consents and safety plans during periods of prevention services to ensure compliance with HIPAA, federal regulations,¹² and state law. Consider policies that carefully balance how evidence of participation or nonparticipation in prevention services could be used if a child later enters foster care.
 - Include individuals with lived experiences as parents, children, or kin caregivers in the foster care system to discuss what would best serve family prevention services needs in the community. Partner with organizations such as the [Birth Parent National Network](#), [FosterClub](#), and [Generations United](#) that have professional expertise ensuring such engagement respects all viewpoints.
 - Examine racial disparities in using and accessing prevention services within the community. Partner with community leaders and families in and outside child welfare to develop approaches for resolving these disparities. This is important because research confirms, for example, that African American families are less likely to receive in-home services meant to address underlying causes of family crises that can lead to child removals.¹³
- Elevate and [recommend prevention programs](#) poised for federal [Title IV-E Prevention Services Clearinghouse Review](#).



Research to Cite

Consider citing research on:

Impact and efficacy of providing prevention services to families before removing a child from the home

- › ABA Center on Children and the Law & National Council of Juvenile and Family Court Judges. *Judge's Action Alert: Supporting Early Legal Advocacy before Court Involvement in Child Welfare Cases*, November 2020.

An alert for judges about early legal advocacy before a child is removed or an abuse and neglect petition is filed in court. It explains the benefits of this advocacy, how it supports judges' roles and ways they can support it, and how communities are using it in practice.

- › ABA Children's Rights Litigation Section. [*Trauma Caused by Separation of Children from Parents: A Tool to Help Lawyers*](#), January 2020.

This tool organizes dozens of research citations about how parent-child separation harms children.

- › ABA House of Delegates. [*ABA Policy Resolution 118: Family Integrity and Family Unity*](#), August 12-13, 2019.

Recognizes that "children and parents have legal rights to family integrity and family unity" and cites state laws across the country that codify those rights as fundamental liberty interests. The policy also calls for the use of "prevention services, including legal services, to ensure children's safety without the need for removal from a parent or caregiver."

- › Child Welfare Information Gateway. [*Issue Brief: In-Home Services in Child Welfare*](#), March 2014. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

This federal resource acknowledges that "removing children from their families is disruptive and traumatic and can have long-lasting, negative effects" and highlights promising and best practices to provide services that successfully avoid family separation.

- › Doyle, Joseph J. [*Child Protection and Child Outcomes: Measuring the Effects of Foster Care*](#), 2007.

Examines the lives of children who entered foster care compared with children who were "on the margin of placement" but remained home rather than entering foster care. Those who stayed home experienced "better outcomes" and there were no significant benefits from foster care placement for children at the margin of foster care.

- › Family Justice Initiative (FJI). [*Attribute 4: Timing of Appointment*](#), 2019.

This guide on implementing FJI system attribute #4 on timing of appointment in child welfare cases explains the value of prepetition legal representation and describes several prepetition legal representation programs throughout the U.S.

- › Goydarzi, Sara. [*"Separating Families May Cause Life-long Health Damage."*](#) *Scientific American*, June 2018.

An interview with noted pediatrician Dr. Alan Shapiro about the dangers of parent-child separation; although the context for this article is the immigration crisis at the U.S. southern border, Dr. Shapiro's discussion of the Adverse Childhood Experiences (ACEs) study and the overall childhood neurological response to separation is relevant to domestic child welfare advocacy.

- › National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Subcommittee. [*Trauma: What Child Welfare Attorneys Should Know*](#). Los Angeles, CA, and Durham, NC: National Center for Child Traumatic Stress, 2017.

Posits that "[i]n addition to situations of abuse or neglect that lead to their removal from their homes, children in care may experience further stresses after entering the system. Separation from family, friends, and community is often referred to as system-induced trauma."

- › Mitchell, Monique. *The Neglected Transition: Building a Relational Home for Children Entering Foster Care*. New York: Oxford University Press, 2016.

A study of foster children that examines the acute feelings of grief and ambiguity that occur when children are separated from their families even to serve their "best interests." Dr. Mitchell equates this experience for the child to a feeling of mourning the loss of the parent as much as if she had died, a feeling augmented by separation from siblings and other members of one's family and community.

- › Sankaran, Vivek, Christopher Church & Monique Mitchell. “[A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families](#).” *Marquette Law Review* 102(4), 2019, 1163-94.

Describes, *inter alia*, how removal and placement in foster care can cause or compound complex trauma in children due to various factors, including multiple placements, relationship ambiguity, and ambiguous loss. See endnote 18 for cites to several compelling reports.

- › Segrue, Erin. Ph.D., LICSW. [Evidence Base for Avoiding Family Separation in Child Welfare Practice: An Analysis of Current Research](#). Alia Innovations, July 2019.

Concludes that “for children who have experienced maltreatment, out-of-home placement provides little to no measurable benefit in terms of cognitive or language outcomes, academic achievement, mental or behavioral health, or suicide risk.”

- › Trivedi, Shanta. “[The Harm of Child Removal](#).” *NYU Review of Law & Social Change* 43(3), 2019.

Part II summarizes research on “the myriad negative outcomes” resulting from removal and placement in foster care, including emotional, psychological, physical and sexual health problems, and cultural detachment, that manifest in the short and long term.

- › U.S. Children’s Bureau “[Information Memorandum: Reshaping Child Welfare in the United States to Focus on Strengthening Families through Primary Prevention of Child Maltreatment and Unnecessary Parent-Child Separation](#).” ACYF-CB-IM-18-05. November 2018.

In this comprehensive guidance, the federal agency that oversees foster care emphasizes focusing on primary prevention and specifies the role courts and attorneys can play in these efforts. It explains that “primary prevention services must be located in communities where families live, easily accessible, and culturally responsive. Those services should also focus on the overall health and well-being of both children and families and be designed to promote resiliency and parenting capacity.”

- › Wan, William. “[What Separation from Parents Does to Children: ‘The Effect is Catastrophic,’](#)” *Washington Post*, June 18, 2018.

Shares social science research on family separation, with a focus on the harm to the developing child brain.

a. Family-based substance use treatment setting

What does this provision do?

This provision changes federal law to allow federal maintenance payments for the cost of caring for a child who lives with a parent in a family-based residential facility licensed to provide substance use treatment for adults.¹⁴

Why was this provision included?

This provision recognizes that children should remain with their parents when it is safe to do so because separation is traumatic and remaining together while parents receive treatment can improve overall outcomes for children. For example, research shows children who are exposed to substances in-utero and remain in their mother's care have better developmental outcomes than infants who are placed in foster care.¹⁵ This provision also recognizes that parents, especially mothers, fare better in terms of their physical and mental health when children remain in their care.¹⁶ (See *Research to Cite: Family-Based Substance Use Treatment Setting* for research supporting these points.)

Although effective substance use treatment programs exist in which children remain with their parents, a lack of funding for the child's care while a parent is in residential substance use treatment is a barrier. Parents' costs while in such treatment are often covered through Medicaid but the child's costs of care have historically not been covered through a parallel funding stream. The change in the Family First Act addresses this barrier by allowing maintenance payment funding to be used for the child's costs.

This provision is important because of the high numbers of cases involving parents' substance use disorder and young children. Recent data reported in the Adoption and Foster Care Analysis Reporting System (AFCARS) shows more than 41% of entries into foster care in 2018 involved drug use or alcohol abuse.¹⁷ AFCARS data also show that 39% of all entries to care involve children three years old or younger and 19% of all entries to foster care involve children under one year old.¹⁸ Having options where parents can receive treatment for substance use while maintaining a caring relationship with their young children helps address these issues.

How does this provision work?

- ❑ The federal law requires that the child be "placed" in foster care to be eligible for placement with a parent in a treatment center.¹⁹

- ❑ The recommendation must be specified in the child's case plan before the child begins to live in the treatment center.
- ❑ The treatment facility must provide, as part of the treatment for substance use disorder, parenting skills training, parent education, and individual and family counseling.
- ❑ The treatment framework must be trauma informed.
- ❑ States and tribes can access this federal funding for up to 12 months.
- ❑ To seek reimbursement for maintenance costs the agency must show the child meets the eligibility requirements for Title IV-E Foster Care Maintenance Payments either through a voluntary placement agreement or a judicial determination.²⁰ The child does not need to meet the Title IV-E income eligibility requirements.

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ Talk with the caseworker about whether placement with a parent during treatment is advised to facilitate a reunification goal and minimize the trauma of separation.
- ❑ Consider other federal requirements, such as the need to ensure a child is placed in the "least-restrictive,"²¹ most family-like setting while in foster care, which may include keeping the child with a parent if possible.
- ❑ Research the availability of this type of placement in the community.²²
- ❑ Discuss this option with the child's attorney and the parent's attorney to determine if other parties agree this would be a valuable placement recommendation.
- ❑ Support the caseworker's placement recommendation in the case plan and prepare to advocate for that placement in court if needed. Consider tying support to legal requirements regarding placement determinations such as those outlined in federal law.²³
- ❑ If this placement is not advisable, prepare to explain why it would not best serve the child's needs and case plan goals.

Child's counsel

- ❑ Consider how this placement option may serve your client's interests when the case plan goal is reunification and the primary basis for child welfare involvement is parental substance use. In most cases, it will be difficult to discuss directly with a child because this option is primarily targeted to infants and very young children but there are multiple ways to provide high quality legal advocacy for young children.²⁴ Relatedly, you can:
 - Look at the potential medical and social benefits of keeping the child with a parent to enhance bonding.
 - Understand how the parent's access to counseling and parent education may help the child while with the parent.
 - Evaluate the trauma-informed care provided to children in the setting.
 - Examine whether the child has any heightened medical needs that would or would not be met at the residential treatment facility.

Parent's counsel

- ❑ Talk with your client about this option and share details about [where potential facilities exist](#).
- ❑ Discuss the availability of such placements with the agency attorney, caseworker, and child's attorney.
- ❑ If the parent supports this placement option, advocate for the caseworker to include it in the case plan. Cite research and case law recognizing the importance of early attachment and parent-child bonding (see *Research to Cite* below for more resources). If it is not offered, advocate for the judge to inquire why it is not an option.
- ❑ If there is a possibility the child would not otherwise be placed in foster care and could remain at home, discuss with the parent that because the residential treatment option requires foster care placement there may be implications for the termination of parental rights (TPR) timeline in federal and state law.
- ❑ Ask agency counsel and the caseworker whether residential placement with a parent could constitute compelling reasons not to seek TPR if the parent requires treatment for longer than 15 months while the child is considered "placed" in foster care.²⁵

Judicial decision maker

- ❑ If the case plan includes a recommendation for the child to be placed with a parent in a residential substance use treatment facility, ask how this will best serve the child's interests and the family's reunification goals.

- ❑ Ask about the timing and availability of such placements in the community.
- ❑ Ask about the potential implications for the 15-month timeline and if the agency anticipates considering such placement to constitute "compelling reasons" for not filing a TPR petition²⁶ if the parent requires treatment for more than 15 months and the child remains "placed" in foster care.
- ❑ Review and cite medical research and case law supporting parent and infant bonding, especially during the early stages of development, as part of a judicial decision to support such placements. (See *Research to Cite: Family-Based Substance Use Treatment*)
- ❑ If the case plan does not include this recommendation but substance use is a primary factor in the case and the child is young, ask why placement with the parent in residential treatment is not a viable alternative to parent-child separation to support the "least-restrictive" placement as required by federal and most state law.
- ❑ Consider how co-location of a child with a parent fits into the judicial inquiry about reasonable efforts to prevent removal and reasonable efforts to support reunification.

How can the legal community support Family First implementation?

- ❑ Consult the [Directory of Residential Substance Use Disorder Treatment Programs for Parents with Children](#)²⁷ for facilities in almost every state to identify programs in your community.
- ❑ If your community has options for this kind of placement learn about them and how they work (e.g., waitlist policies, primary client base, age limits for children, total family size limits).
- ❑ If programs exist but are not used regularly within the child welfare system, identify and understand the barriers and reasons children are not placed in the facility and work together to overcome those issues.
- ❑ If your community does not have a licensed facility for children to be with parents during residential substance use treatment, work collaboratively with the child welfare agency, Department of Health, substance use treatment providers, families, and others to create one. Look at programs that exist in nearby states to seek guidance and information about how to structure something similar in your community.
- ❑ Familiarize yourself with medical and legal research concerning trauma from family separation and research

on substance use disorders and effective treatments to ensure all stakeholders understand the benefits of treatment that minimizes the risk of separation.

- ❑ Work with legislators and policymakers to identify options for addressing the potential implications of the 15-month timeline for families in this kind of placement setting. For example, Oregon pays for these

placements with state rather than federal funds to avoid the need for official foster care placement of the child and the triggering of the 15-month timeline.

- ❑ Examine disparities in access to treatment facilities for families of different racial and ethnic backgrounds. Partner with community leaders to identify causes for these disparities and address them directly.

Family-Based Substance Use Treatment



Research to Cite

Consider citing information on:

Importance of early attachment and parent-child bonding

- › Abrahams, Ron & Nancy Rosenbloom. “[Effective Strategies for Courtroom Advocacy on Drug Use and Parenting](#),” *Child Law Practice Today*, October 2019.

Explains that “[w]ith a harm reduction approach, health care providers, child protection workers, attorneys, and judges should [or would] base their understanding about the effects of drug use during pregnancy on scientific evidence, and view mothers who have used drugs as entitled to high-quality, evidence-based care if they need it, along with respect and support.”

- › Children and Family Futures. [Infants with Prenatal Exposure](#) (web page).

Includes resources to support pregnant and postpartum women and their infants with prenatal substance exposure for optimal bonding, health, and well-being.

- › Committee on Supporting the Parents of Young Children Board on Children, Youth, and Families Division of Behavioral & Social Sciences and Education. [Parenting Matters: Supporting Parents of Children Ages 0-8](#). National Academies: Sciences, Engineering, & Medicine, 2016.

Explains that “young children who do not become securely attached with a primary caregiver (e.g., as a result of maltreatment or separation) may develop insecure behaviors in childhood and potentially suffer other adverse outcomes over the life course, such as mental health disorders and disruption in other social and emotional domains.”

- › Howard, Kimberly et al. “[Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families](#).” In *Attachment & Human Development* 13(1), 2011, 5.

Explains that “a central component of attachment theory is the notion that caregivers must be present and accessible in order for their children to become attached to them.”

- › Maze, Candice L. [Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation](#). ABA Center on Children and the Law, October 2010.

Explains that “[b]ecause very young children, especially those under three years old, do not function independently, but in relationship to others, the quality of their relationships with biological and substitute caregivers largely determines their physical, social/emotional, and cognitive developmental processes.”

- › National Center on Substance Abuse and Child Welfare. [Drug Testing in Child Welfare](#), 2010.

Asserts that, given no other safety concerns, “a positive drug test or a series of positive drug tests should not be used as the sole determining factor in the removal of a child from the home or to determine parental visitation.”

- › National Council of Juvenile and Family Court Judges. [Enhanced Resource Guidelines](#), 2016.

Section P addresses “Best or Promising Court Practices to Encourage Safe and Timely Permanency” and explains “[b]ecause a child’s first three years of life are an essential time for attachment and relationship-building, disruptions during this period can present special challenges. The early building of positive child-parent relationships begins with sensitive nurturing, protection, and physical proximity that is consistent across time.”

- › **Quality Improvement Center Collaborative Community Court Teams and ABA Center on Children and the Law.** [*Reasonable and Active Efforts, and Substance Use Disorders: A Toolkit for Professionals Working with Families in or at Risk of Entering the Child Welfare System*](#), undated.

Addresses challenges presented in making reasonable and active efforts and related judicial findings in cases involving substance use. The toolkit provides definitions, statutory requirements, examples of reasonable and active efforts, and a resource guide.

- › **Smariga, Margaret.** [*Visitation with Infants and Toddlers in Foster Care*](#). ABA Center on Children and the Law & ZERO TO THREE National Policy Center, 2007.

Notes that “Secure and stable attachments with a primary caregiver form the foundation for a child’s social, emotional, and cognitive development. Children who

develop secure attachments show a greater capacity for self-regulation, effective social interactions, self-reliance, and adaptive coping skills later in life.”

- › **Wall-Wieler, Elizabeth et al.** “[Mortality Among Mothers Whose Children Were Taken Into Care by Child Protection Services: A Discordant Sibling Analysis](#).” *American Journal of Epidemiology* 187(6), June 2018, 1182–1188.

Finds that mothers whose children were placed in care were 3.5 times more likely to die from avoidable causes (e.g., unintentional injury and suicide), and 2.9 times more likely to die from unavoidable causes (e.g., car accidents and heart disease).

b. Foster family home setting

What does this provision do?

The Family First Act prioritizes placement in a family foster home setting and defines a safe, homelike setting for children in foster care. The Act also provides model federal licensing standards to guide jurisdictional standards for foster family homes and encourages using licensed kinship foster homes through these standards.²⁸

Why was this provision included?

These changes draw from what the child welfare community has long noted: children in foster care benefit from being in family settings rather than group care settings. Research also clearly reflects improved child welfare outcomes of safety, permanency, and well-being when children are placed with kin caregivers.²⁹ A driving message of the Family First Act is that children who cannot safely remain in their parents' care should live in the most family-like, least-restrictive settings possible to meet their needs.³⁰ It also builds on the importance of maintaining a child's connections to relatives and close friends, an approach recognized in the Fostering Connections to Success and Increasing Adoption Act of 2008 and prioritized in most states' statutes.³¹

How does this provision work?

Expanding on the basic pre-existing federal description of the term,³² the Family First Act defines a “foster family home”³³ to be one that is the home of an individual or family licensed or approved by the state who meets the standards established for licensing or approval and:

- ☐ provides 24-hour care for the child;
- ☐ adheres to the reasonable and prudent parent standard established by the Preventing Sex Trafficking and Strengthening Families Act of 2014;³⁴ and
- ☐ cares for no more than six children in foster care.

The Act prioritizes meeting the needs of children and youth in care, and carves out exceptions to the maximum number of six children in foster care per home for:

- ☐ a parenting youth in care to remain with his or her child;
- ☐ siblings to remain together;
- ☐ a child with an established meaningful relationship with the family to remain with the family; and

- ☐ a child with a “severe disability” whose needs can be met by a family with special training or skills.

Licensing standards

The Family First Act further emphasized the importance of safe family-based settings by calling for national foster family home licensing standards. Pursuant to a requirement of the Act, in February 2019, the U.S. Department of Health and Human Services (HHS) released National Model Foster Family Home Licensing Standards³⁵ that apply to relative and nonrelative foster homes and are based on a model developed by the National Association for Regulatory Administration (NARA), ABA Center on Children and the Law, and Generations United.³⁶

The Family First Act also required states and tribes to compare their own foster family home standards to the national standards and report to HHS whether the state licensure rules were consistent with the national model and explain any inconsistency. This required review allowed states and tribes to revisit unnecessary or out-of-date licensing standards and increase the number of safe, appropriate foster family home settings.

Kinship caregiver support

Although kinship care has steadily increased nationwide over the years, some states do not license these kinship caregivers. As a result, those homes are subject to agency rules and restrictions, but provide limited or no financial and other support to caregivers. To help address this problem, the Family First Act requires states to identify which non safety licensing standards for relative foster family homes are most commonly waived and describe whether a process or tools for waivers exists, how caseworkers are trained to use the waiver authority, and how the process is being improved.³⁷ This effort is designed to eliminate barriers created by state standards so more relatives can be licensed as foster parents and access related supports and clear paths toward permanency for children.

How can the legal community use these provisions to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ☐ Consider whether your jurisdiction includes and engages “fictive kin”—godparents, trusted teachers and coaches, and religious leaders—under the definition of “relative” to be notified when a child is removed from their family.



Additional Support for Kin Caregivers

Kinship Navigators

The Family First Act encourages broader use and support of kinship caregivers by supporting increased use of kinship navigators.¹ Some kinship navigators were first federally funded under the Fostering Connections grants with the goal to assist caregivers by providing information about programs and services to meet the needs of children they are raising and their own needs, and can serve all kinship families regardless of eligibility for federal foster care payments.² The Family First Act gives states the option to offer these programs and access federal reimbursement for doing so.

Supports to Improve Kin Caregiving

In 2020, the Children's Bureau also issued [Technical Guidance](#) providing that states and tribal grantees may use kinship navigator funds to provide brief legal services to "assist kinship caregivers in learning about, finding and using programs and services to meet the needs of the children they are raising and their own needs."³ This may include "support[ing] any other activities designed to assist kinship caregivers in obtaining benefits and services to improve their caregiving."⁴

Sources

¹ Learn more about [your state kinship navigator](#).

² See 42 U.S.C. § 627

³ See section 427(a)(1) of the Act; See also Children's Bureau. [Technical Bulletin: Frequently Asked Questions: Independent Legal Representation](#), July 20, 2020.

⁴ *Id.*

- ❑ Determine whether the kinship caregiver for the child understands the different placement and permanency options, including, if available, Title IV-E Guardianship Assistance Program.³⁸
- ❑ If the kin caregiver is not licensed as a foster home, determine why.
 - If a licensing barrier exists, can it be fixed or waived?
 - Is the caseworker trained and familiar with the waiver process in your jurisdiction?
 - Note that it is the agency's decision to license a foster home and the court cannot order a home to be licensed.

Child's counsel

- ❑ Advocate for the least-restrictive placement setting while in foster care, giving priority to kin placements

rather than a foster family with no prior connection to the child.

- ❑ Ask the child who in their family they may want to live with while in foster care. Ensure all adult relatives have been notified of the child's removal and entry into foster care as required by federal law and allowed an opportunity to stay connected to the child.
- ❑ If you represent siblings, advocate for placement together in a kin home or foster family home, unless there is a safety reason this would not be best for each of your clients.
- ❑ If you represent an expectant youth determine whether your client wants to remain in the same foster family home after the child is born. If so, advocate for that option. If not, why not and what can be done to achieve your expectant client's goals?
 - Assess what services should be offered now and after the baby is born and advocate that those services are provided to your client promptly.
- ❑ If the child has a severe disability, determine whether this foster family home is able to provide tailored services and support. Identify whether the foster family home needs additional supports and training to care for the child and advocate accordingly.

Parent's counsel

- ❑ Explore what efforts have been made to identify, notify, and engage all adult relatives. Have both parents' relatives been identified, notified, and engaged?
- ❑ Ask your client to identify potential kin placements and family connections. Do the parents have preferences concerning which adult relatives would best care for the children?
- ❑ Are siblings placed together? If not, is it because it would affect the safety or well-being of any of the siblings to place them together, per the Fostering Connections to Success and Increasing Adoptions Act of 2008?³⁹ Are the siblings visiting regularly?
- ❑ Assess whether the parents have regular communication with the resource family. If not, consider if there are ways to promote communication.

Judicial decision maker

- ❑ Consider how the current placement meets the child's needs. If the child is not with kin, why not? If the child is not in a foster family home setting, why not? If the child is not placed with siblings, why not?
- ❑ Explore what efforts have been made to identify, notify, and engage all adult relatives. Each party should play

a role in creating a support network for the family—whether as a placement option, a visitation resource, or a supportive role for family.

- ❑ Determine whether the child is regularly visiting parents, relatives, and siblings if not in the same placement setting.

How can the legal community support Family First implementation?

- ❑ Join your state's discussion about how to improve recruitment and retention of foster family homes. Solicit input from current and former resource families about what barriers they experienced in becoming licensed foster parents or why they chose not to continue in that role.
- ❑ Make sure you are familiar with the licensing requirements for all foster homes, as well as the foster parent licensure waiver practices for kinship caregivers in your jurisdiction.

- ❑ Become involved in your state's efforts to align the state licensing standards with the National Model Foster Family Home Licensing Standards.
- ❑ Identify and understand common barriers to licensing kin. Are they being addressed by your standards, waivers, or other processes?
- ❑ Find out if your state has a kinship navigator program (see *Additional Support for Kin Caregivers* sidebar). Did your jurisdiction receive federal kinship navigator program funding to develop, enhance, or evaluate kinship navigator programs? If so, join your jurisdiction's efforts to maximize this funding. Help determine if this program will serve kinship families both inside and outside the child welfare system.

In developing and operating a kinship navigator program, encourage your jurisdiction to engage relative caregivers and community-based organizations with experience serving kinship families both inside and outside the child welfare system.

Foster Family Home Setting



Research to Cite

Consider citing information on:

Benefits of family-based care over institutional and group care

- › The Annie E. Casey Foundation. [*Every Kid Needs a Family Policy Report*](#), May 19, 2015.

Explains the developmental benefits of family-based care by age group and compiling research to show that “children who live in a family while in the child welfare system are better prepared to eventually thrive in a permanent home, whether that involves a return to their birth parents, permanent placement with kin, or non-kin adoption.”

- › American Orthopsychiatric Association. [*Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*](#), 2014.

A consensus opinion by internationally recognized researchers that explains why group-care settings can harm the well-being of youth and that “children and adolescents have the need and right to grow up in a family with at least one committed, stable, and loving

adult caregiver” because healthy attachment to a parent figure is necessary for children of all ages to reduce problem behaviors and interpersonal difficulties. As a result, “group care should never be favored over family care. Group care should be used only when it is the least detrimental alternative.”

- › Barth, Richard P. [*Institutions vs. Foster Homes: The Empirical Base for a Century of Action*](#). Chapel Hill, NC: Jordan Institute for Families School of Social Work, June 17, 2002.

Demonstrates that when compared with children in family foster care, children in group settings “have fewer interpersonal experiences that support their well-being, including the chance to develop close relationship with a significant individual who will make a lasting, legal commitment to them.”

- › Center on the Developing Child at Harvard University. [*The Foundations of Lifelong Health Care Built in Early Childhood*](#), 2012.

Explains the benefits of high-quality family foster care in relationship with institutional care where “basic needs for food, warmth, shelter, and medical care may be met, thereby avoiding most legal definitions of neglect,” but children’s “psychosocial needs” are often not met because they lack access to a stable adult-child relationship that promotes consistent, rewarding interaction and development.

Benefits of kin placements

- › Bissell, Mary. “[Recruiting and Supporting Kinship Foster Families](#).” *ABA Child Law Practice*, July/August 2017.

Addresses licensing barriers by explaining that “in many states, current licensing requirements, such as those addressing square footage and unnecessary educational requirements (e.g., requiring a high school diploma), are aimed almost exclusively at nonrelative foster care placements. State child welfare agencies must carefully review and amend their current standards to eliminate unnecessary barriers that keep quality and caring relatives from becoming licensed foster families.”

- › ChildFocus. [Foster & Kinship Parent Recruitment and Support Best Practice Inventory](#), undated.

An inventory of key steps to finding and keeping quality kin caregivers.

- › Epstein, Heidi Redlich. “[Kinship Care Is Better for Children and Families](#).” *Child Law Practice Today*, July/August 2017.

Explains multiple benefits of kin placements for children, including that “Children in the care of relatives experience increased stability, with fewer placement changes, decreased likelihood of disruption and not as many school changes. Relatives are more likely than nonrelatives to support the child through difficult times and less likely to request removal of problem children to whom they are related. The children themselves generally express more positive feelings about their placements and are less likely to run away.”

- › Generations United. [Children Thrive in Grandfamilies](#).

Outlines benefits of relative placements, including higher rates of permanency because children in kin care are “less likely to re-enter foster care after returning to birth parents” and because relatives are often more willing to adopt or become permanent guardians when reunification with parents is not possible. This is underscored by national data showing 32% of children adopted from foster care are adopted by relatives.

- › [Grandfamilies.org State Laws Database](#)

A searchable database of state laws relating to kin placements for children in foster care.

- › Konijn, Carolein, et al. *Foster Care Placement Instability: A Meta-Analytic Review*. *Children and Youth Services Review* 96, 2019, 483-499.

A study of foster care placement stability factors between 1990-2017 that concluded children placed with non-kin were more likely to experience placement disruption, a finding that was especially notable for younger children.

- › 110th U.S. Congress. [Fostering Connections to Success and Increasing Adoptions Act of 2008](#), Pub. L. No. 110-351 (2008).

Emphasizes family finding, notice to relatives, kinship navigator funding, and prioritizing kin placement. To further support these points, see:

[Placement of Children with Relatives](#)

[Fostering Connections—Summary and Analysis](#)

[Foster Care Licensing—Summary & Analysis](#)

Licensing standards and waiver options

- › Beltran, Ana & Heidi Redlich Epstein. “[New Model Family Foster Home Licensing Standards: An Overview](#).” *Child Law Practice Today*, February 2015.

Provides a detailed summary of the 2014 Model Family Foster Home Licensing Standards.

- › National Association for Regulatory Administration, ABA Center on Children and the Law, Generations United & Annie E. Casey Foundation. [Model Family Foster Home Licensing Standards](#), 2018.

Originally published in 2014 as the first comprehensive model family foster home licensing standards. The accompanying [Model Family Foster Home Licensing Standards Cross-Walk Tool](#) (updated 2019) helps states and tribes compare their current foster care licensing standards with the National Model Family Foster Home Licensing Standards and the NARA Model Licensing Standards.

- › U.S. Department of Health and Human Services, Administration for Children and Families. [ACYF-CB-IM-19-01: National Model Foster Family Home Licensing Standards](#), Feb. 4, 2019.

Issues national model licensing standards for foster homes and reminds agencies that they may waive nonsafety licensing standards for relative foster family homes.

Ensuring caregivers meet the “reasonable and prudent parent” standard

- › Epstein, Heidi Redlich and Anne Marie Lancour. “[The Reasonable and Prudent Parent Standard](#).” *Child Law Practice Today*, October 2016.

Explains that under federal law caregivers must use a “reasonable and prudent parent standard” when supporting a child in foster care’s participation in extracurricular, enrichment, cultural, and social activities, and the child welfare agency must provide the court with information that the reasonable and prudent parent standard is being followed.

Supporting joint sibling placements

- › Child Welfare Information Gateway. “[Sibling Issues in Foster Care and Adoption](#).” *Bulletin for Professionals*, June 2019.

Cites research that shows “placing siblings in the same foster home is associated with higher rates of reunification, adoption, and guardianship” and including

guidance on the legal framework for protecting sibling connections.

- › Kernan, Emily. [Keeping Siblings Together: Past, Present and Future](#). *National Center for Youth Law News* 26(4), January 1, 2006.

Shows “children who are placed with their siblings tend to experience fewer disruptions in their placements.”

Advocating for family-based placements for children with significant disabilities

- › American Academy of Pediatrics. “[Out-of-Home Placement for Children and Adolescents with Disabilities—Addendum: Care Options for Children and Adolescents With Disabilities and Medical Complexity](#).” *Pediatrics* 138(6), December 2016.

Explains that “[c]hildren with significant disabilities and complex medical conditions, like all children, need stable homes with loving families and caregivers who provide the essential physical and emotional resources to promote wellbeing.”

c. Group setting

What do these provisions do?

Under Family First, states and tribes may no longer access federal Title IV-E foster care funds to pay for a child's stay in a traditional, nonspecialized group home or residential care setting after a two-week period.⁴⁰

Beginning the third week of the child's placement, IV-E funding will only be available to support the following four types of nonfamily placements:

- ❑ a setting specializing in providing prenatal, postpartum, or parenting supports for youth;
- ❑ a supervised independent living setting for youth ages 18 and over;
- ❑ a high-quality residential care setting for youth who are victims or at risk of becoming victims of sex trafficking; and
- ❑ a residential placement to meet the therapeutic needs of children and youth with serious emotional or behavioral disorders or disturbances, which is called a qualified residential treatment program (QRTP).

Each IV-E reimbursable placement setting is detailed in the following sections.

In all four categories, federal law requiring that children in foster care reside in the “least-restrictive”⁴¹ setting continues to apply, and kin and foster family home settings should remain a high priority option whenever possible to meet a child's unique needs.

Another provision of law that continues to apply when a child is in one of these four group settings is the “reasonable and prudent parent” standard (also known as the “normalcy” provisions) introduced through the Preventing Sex Trafficking and Strengthening Families Act of 2014, which provides that all children in foster care should have opportunities to “participate in extracurricular, enrichment, cultural, and social activities.”⁴²

Similarly, the education stability provisions of the Fostering Connections to Success and Increasing Adoptions Act and the Every Student Succeeds Act apply for all children in group placements, meaning children's educational needs and ability to continue attending their school of origin should be prioritized while in a group setting.⁴³

Why were these provisions included?

These changes reflect a primary aim of the Family First Act to encourage states to rely less on congregate care

placements and prioritize the longstanding requirement that children whose placements are funded partly by federal Title IV-E foster care funds are in the least-restrictive, most appropriate placement setting.

How do these provisions work?

The Family First Act identifies four nonfamily placement types that may be reimbursable with IV-E funds under Family First. An explanation of four provisions outlining each placement type follows, with recommendations for using the provisions to inform legal advocacy and support implementation in your community.

Group Setting One: Prenatal, Postpartum, or Parenting Supports for Youth

One of the four nonfamily placement types that may be reimbursable with IV-E funds under Family First is a placement setting with prenatal, postpartum, or parenting supports for youth.⁴⁴ State and tribal agencies could already access IV-E funds to reimburse costs of this placement setting with these types of supports for youth, and may continue to do so under Family First.

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ Confirm the current placement is appropriate to meet the needs of the expectant or parenting youth and their children. If not, are other placements available that would better meet all needs, including through kin caregivers, family-based settings, or group settings?
- ❑ If a group setting is the most appropriate option, will the agency seek federal funds and how will the agency state the basis for placement in this group setting?
- ❑ Determine whether the youth has a prevention plan included in his or her case plan.
 - Does it list services or programs to be provided to or on behalf of the youth to ensure the youth is prepared (in the case of an expectant youth in care) or able (in the case of a parenting youth in care) to be a parent?
 - Are those services being provided? If not, what are the barriers and how can they be addressed?



Mental Health Diagnosis Protocols

The Family First Act requires state and tribal child welfare agencies develop procedures and protocols to prevent children from being inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities.¹ These measures, which are to be part of the state or tribe's IV-B plan, must also ensure that children are not placed in group settings as a result of an inappropriate mental health diagnosis.

Prescription medication monitoring

The focus on this area builds on the recognition over the last decade that children in foster care were not only being diagnosed with mental health conditions at alarming rates but were also being overprescribed psychotropic medications with minimal consideration or oversight. The protocol requirement builds on previous federal law requiring states to develop plans with coordinated strategies to identify and respond to children's mental health care needs, including monitoring prescription medications.²

Trauma-informed treatment

Additionally, trauma-related behaviors were too commonly identified as a behavioral disorder that would lead to a child's removal from a family foster home and placement in a group home or residential treatment facility. The Family First provisions are designed to meet the needs of children and youth with serious emotional or behavioral disorders through evidence-based, trauma-informed treatment models.

Placement determinations using evidence-based assessments

Under Family First, the Secretary of the U.S. Department of Health and Human Services is to identify best practices in this area after evaluating existing state procedures and protocols, as well as agencies' efforts to comply with and enforce them.³ This requirement aligns with the goal of ensuring children receive services with demonstrated effectiveness as part of evidence-based practices and policies, including use of validated, evidence-based assessment tools to determine the appropriate placement setting.

Sources

¹ See Family First Act Sec. 50743(a).

² See Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351, Sec. 205.

³ See Family First Act Sec. 50743(b). This evaluation was to be submitted to Congress by January 1, 2020; no such report has been made public to date.

- What federally supported prevention services are available?
- Does it describe the foster care prevention strategy for any child born to the youth?

Counsel for expectant or parenting youth

- Determine how the expectant or parenting youth can maintain supportive and meaningful contact with family or other permanent adult relationships.
- Advocate for expectant and parenting youth to remain in a family-based setting where possible and based on client preferences. Consider whether:
 - all kin and fictive kin who might be open to caring for the youth and child have been explored;
 - services may stabilize a family-based placement (i.e., child care, evidence-based parent-child therapy, mentoring).
- Independently investigate whether a group setting will meet your client's needs. For example, determine:
 - how many other young people are placed there, and whether those youth are also pregnant, postpartum, or parenting;
 - what the rooming/housing situation is like;
 - whether staff are present onsite at all times.
- Evaluate how the current or proposed setting, either in family home care or a group setting, can meet your client's educational needs. Ask:
 - if the young person will receive transportation to his or her school of origin;
 - whether an educational program exists onsite. If so, will it be able to implement the youth's Individualized Education Plan, 504 plan, or other specialized supports?

Judicial decision maker

- Probe whether the most appropriate placement for each expectant or parenting youth is a group setting with relevant supports or a family-based setting.
- Determine whether the expectant or parenting youth communicates regularly with family and can be supported by parents and other family members.
- Ask whether prevention services are available for the expectant or parenting youth in foster care and their children.

How can the legal community support Family First implementation?

- ❑ Support your jurisdiction's efforts to recruit and retain foster family homes to serve expectant, postpartum, or parenting youth.
- ❑ Prioritize policies that support expectant and parenting youth of all genders who are in or transitioning out of foster care.⁴⁵
- ❑ Determine whether your jurisdiction already has residential settings with prenatal, postpartum, or parenting supports for youth in foster care, and whether the agency accesses Title IV-E funds for these placements, in addition to any state dollars used.
- ❑ If no such settings are available in your jurisdiction, work with the child welfare agency and service providers to develop them or to develop alternatives that meet youth service needs outside a residential setting.
 - Recruit youth or individuals with relevant experience to help shape these programs.⁴⁶
 - Consider whether investing more in community-based services for youth at risk of placement in settings for expectant or parenting youth could reduce the need for residential care.
- ❑ Identify what services qualify as prenatal, postpartum, or parenting supports in your jurisdiction and whether they are available to youth who live in kin caregiver homes or other family foster home settings.
- ❑ Ask youth about their experiences in residential settings serving prenatal, postpartum, or parenting youth and share that with the implementation team, after securing the youth's permission.
- ❑ Assess what impact a nonfamily placement with prenatal, postpartum, or parenting supports may have on the youth's education and school stability. How can adverse impacts be mitigated?

Group Setting Two: Supervised Independent Living Setting for Youth Over 18

Expenses for a supervised independent living setting for youth aged 18 and over also may be reimbursable with IV-E foster care funds under Family First.⁴⁷ This placement type was already reimbursable with IV-E foster care funds under the Fostering Connections to Success and Increasing Adoptions Act of 2008. Fostering Connections included “a supervised setting in which an individual lives independently” as a Title IV-E reimbursable setting for youth ages 18 to 21. That option continues to be available under Family First.⁴⁸

How can the legal community use this provision to inform legal advocacy and legal decision making?

Child welfare agency counsel

- ❑ Be prepared to provide information on the chosen setting and what resources it offers youth in this placement.
- ❑ Ensure the agency is connecting youth aged 18-21 to all available tools for youth in extended foster care, including educational and employment resources.

Child's counsel

- ❑ Advocate for the youth to live in a supervised independent living setting or family-based setting where possible, depending on what your client prefers.
- ❑ Independently investigate whether the proposed placement will meet the youth's needs and what other services are needed to meet those needs and support the youth.
- ❑ Be creative and innovative in pursuing the best living arrangements to meet an older youth's needs for supervision and support as your client moves toward independence.
- ❑ Help your client identify permanent, significant adult connections who will be sources of support if the client ages out of foster care without reaching a final permanency goal.
- ❑ Work with your client and community service providers to make sure your client has access to stable housing upon reaching the age of foster care emancipation in your jurisdiction.
- ❑ Work with your client and other legal services providers to make sure your client has access to legal representation for collateral issues that may require assistance related to housing access, benefits eligibility, immigration status, juvenile records, and employment eligibility.

Judicial decision maker

- ❑ Assess the placement's stability and ability to meet the individualized needs of youth.
- ❑ Engage youth during appearances to learn more about their needs, and to gauge the quality and scope of services and resources available to youth.

How can the legal community support Family First implementation?

- ❑ Access any tools the IV-E agency has developed to

determine whether a supervised independent living setting that a youth selects is appropriate. For example, does the agency consider a substance use, mental health, or other adult treatment facility to be a supervised independent living setting if the youth is living there voluntarily, paired with IV-E agency supervision?

- ❑ Invite individuals with personal experience in foster care to share perspectives about group home experiences in a context where they have support to prepare their ideas, share them safely, and can engage in ongoing reform efforts.
- ❑ Determine how heavily your jurisdiction relies on supervised independent living settings. Join partnerships between the child welfare system and runaway and homeless youth providers working to increase the availability of independent living settings and other resources.⁴⁹
- ❑ Consider the impact a nonfamily supervised independent living placement setting may have on the young person's education and school stability. How can adverse impacts be mitigated?

Group Setting Three: Setting for Youth Who are Sex-Trafficking Victims and Those Who Are At-Risk

A placement setting for youth who are sex trafficking victims and those at risk of sex trafficking is another nonfamily placement type that remains reimbursable with IV-E funds after the initial two-week period.⁵⁰ (This description's use of "victims" aligns with the statutory text.) This placement was already allowed for reimbursement with IV-E funds. It continues to be an option under Family First.

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ Determine how the group setting meets the youth's needs related to:
 - physical health (prior lack of health care, reproductive health care, etc.);
 - complex behavioral health needs (traumatic stress, posttraumatic stress disorder, generalized anxiety disorder, major depressive disorder, dissociative disorders, substance use, etc.); and
 - educational screening and any remedial services indicated.

Child's counsel

- ❑ Consider whether to advocate for a more family-like setting based on the youth's wishes. Ensure the prospective foster parents are prepared to serve foster youth who are survivors or are at risk of trafficking.
- ❑ Independently investigate whether the group setting provides the specialized services your client needs.
- ❑ Ensure the placement has trained, qualified behavioral health providers with experience working with youth who have been trafficked. Is there a mentor or other staff available to provide guidance and long-term assistance essential for the youth to move away from trafficking and reduce the risk of revictimization?
- ❑ Talk with your client to identify any parents or relatives who would be a safe, adult connection. Work with the caseworker to engage these individuals recommended by your client.
- ❑ Assess whether the youth has other legal needs. For example:
 - Does the youth need legal counsel related to any juvenile or criminal justice system involvement resulting from the youth's victimization?
 - Is legal counsel needed to protect the youth from traffickers?
 - Does the youth require a victim advocate?

Judicial decision maker

- ❑ Determine whether the young person's placement setting is equipped to address the trauma experienced by children who have been trafficked.
- ❑ Assess the opportunities for placement in tailored group care and family-based settings for youth who have experienced or are at risk of sex trafficking.
- ❑ Stay informed of the needs of youth who experience sex trafficking and emerging research on trauma-responsive treatment.⁵¹

How can the legal community support Family First implementation?

- ❑ Determine what group placements in your jurisdiction qualify to serve survivors of sex trafficking or those at risk. Who makes that determination? What policies are in place regarding placement eligibility? Are the placements safe?
- ❑ If additional settings are needed, work with the agency and other stakeholders to develop new, high-quality spaces. In the process, determine how your

jurisdiction funds nonfamily placements for survivors of sex trafficking or those at risk, and how best to access Title IV-E funds used.

- ❑ Invite individuals with personal experience in foster care to share perspectives about group home experiences in a context where they have support to prepare their ideas, share them safely, and can engage in ongoing reform efforts.
- ❑ Consider what impact a group setting for survivors of sex trafficking or those at risk may have on the youth's education and school stability. How can harmful effects be mitigated?

Group Setting Four: Residential Placement to Meet Therapeutic Needs

What is a Qualified Residential Treatment Program?

A fourth nonfamily home option under Family First is a highly specialized placement called a qualified residential treatment program (QRTP).⁵² This setting is designed to meet the therapeutic needs of children with serious emotional or behavioral disorders or disturbances. The Family First Act provides extensive detail about requirements for this placement type, assessments and treatment planning, and the approval process and timeline.

Setting requirements

To be considered a QRTP, a residential program must:

- ❑ follow a trauma-informed model;
- ❑ be designed to meet the needs of children with serious emotional or behavioral disorders;
- ❑ be able to implement the treatment plan for each child in its care;
- ❑ have registered/licensed nursing professionals and other licensed clinical professionals on staff on call 24 hours a day, 7 days a week;
- ❑ engage family members and kin, and maintain their contact information;
- ❑ help family members participate in a child's treatment plan (to the extent appropriate and consistent with the child's best interests);
- ❑ document how family members have participated in the child's treatment plan;
- ❑ provide discharge planning and family-based aftercare support for at least six months following discharge;

- ❑ ensure all members of its staff have received appropriate background checks (as required of all group care employees); and
- ❑ receive accreditation from one of three major independent licensing organizations for residential care—Commission on Accreditation of Rehabilitation Facilities (CARF), Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and Council on Accreditation (COA)—and any other independent, nonprofit accrediting organization approved by HHS, and also applicable licensure.

Assessments and treatment planning

The Family First Act outlines a number of assessment and treatment-related criteria that must be met before an agency can access federal Title IV-E reimbursement for the costs of a child's care in a QRTP:

- ❑ *Purpose:* The child must receive an assessment to determine the strengths and needs of the child, set short- and long-term mental and behavioral health goals, and determine the least-restrictive level of care that can meet the child's needs.
- ❑ *The Assessment Tool:* The assessment must be conducted using an age-appropriate, evidence-based, validated, functional assessment tool that the federal government has approved for this purpose.
- ❑ *Timing:* The assessment must be administered and completed within 30 days of the child's placement in a QRTP.
- ❑ *Qualified Individual:* A "qualified individual" must conduct the assessment for each child. An individual is qualified if he or she is a trained professional or licensed clinician not employed by the state or affiliated with a placement setting (although the federal government may waive this employment exclusion upon state agency request with adequate assurances of objectivity).
- ❑ *Justification:* If the qualified individual conducting the assessment determines that the child must be placed in a QRTP, the assessment must document in writing the reasons the child cannot live in a family-based setting at this time, and the reasons the specified QRTP meets the child's treatment goals and needs. **Family First explicitly notes that a lack of available foster homes is not an acceptable reason for QRTP placement.**
- ❑ *The Team:* The child welfare agency is responsible for assembling a treatment team composed of, where appropriate, the child's family and natural supports, including biological parents, siblings, fictive kin, and other positive adult sources of support in the child's life. A child who is 14 or older may choose the members of

his or her treatment team. The agency must document its efforts to build and maintain this team and solicit the team's input.⁵³ The family and permanency team meetings must be held at a time and place convenient for family.⁵⁴

Approval process and timeline

Continuing a child's placement in a Title IV-E funded QRTP requires court oversight and approval (see timeline below). Within 60 days of the child's placement in the QRTP, a court must consider the placement and the assessment that recommended it to determine whether to approve the placement. This review is to be conducted by "a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court..."⁵⁵ If a court finding approving the placement is not made within 60 days, the child welfare agency loses the ability to access federal financial reimbursement for the placement.

Thus, even though a "qualified individual" using a validated assessment instrument will have recommended the child's mental health and behavioral needs require placement in the QRTP, the court may still disapprove such a placement if, after considering evidence and argument, it finds the QRTP is not the most effective and least-restrictive placement for the child. If the court approves the placement and allows the child to remain in the QRTP, the child welfare agency must "submit evidence"⁵⁶ at each subsequent review and permanency hearing documenting the need for such placement and the plan to return the child to a family-based setting.

Extended stays in QRTPs require certain high-level administrative approvals by the child welfare agency. If the child is under age 13, the child's continued stay in the QRTP requires the approval of the director of the state Title IV-E

agency after six months of placement. If the child is aged 13 or over, this approval is required at the 12-month mark.

Notably, Family First also requires that QRTPs offer discharge planning and family-based aftercare support for at least six months after a youth transitions from the QRTP.

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- Be prepared to state why the QRTP is a needed placement for this child. For example:
 - establish the credibility of the assessment;
 - determine whether the assessor will testify to explain the QRTP recommendation;
 - consider whether to call a representative from the QRTP to testify about the placement; and
 - offer evidence of the child's diagnosis, how it differs from any prior diagnoses, and how it is consistent with the criteria laid out in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V).
- Provide the court with the qualified individual's assessment, leaving adequate time for review before the 60-day mark.
- Ensure the court is apprised of the child's progress after placement. Government attorneys should submit evidence in the form of court reports or other filings and be prepared to discuss the placement at every hearing.

Court Approval Process and Timeline for QRTP Placements



- ❑ Explain how the child's permanency goal can be pursued while the child is placed in a QRTP.
- ❑ Make sure the agency has assembled a family and permanency team composed of the child's family and natural supports, including "all appropriate biological family members,"⁵⁷ relatives, fictive kin, and other positive adult sources of support in the child's life, including teachers, medical or mental health providers who have treated the child, or clergy. Prepare documentation of agency efforts to build and maintain this team and solicit the team's input regularly.
- ❑ Confirm the QRTP is documenting how family members are integrated into the treatment process for the child, including after the child is transitioned from that setting, and how sibling connections are maintained.
- ❑ Prepare to explain how this placement meets the requirement to ensure a child lives in the least-restrictive setting while in foster care.
- ❑ Prepare to explain how a child's normalcy goals and ability to participate in activities that are culturally and socially enriching can be met while living in the QRTP.
- ❑ Prepare to state how the child's educational needs are being met through stable schooling and access to the school of origin if possible through transportation between the school and the QRTP.

Child's counsel

- ❑ Engage with your client to confirm the correct participants are part of the family and permanency team. If your client is 14 or older, make sure your client has had an opportunity to choose members of the treatment team.
- ❑ If your client does not want to live in a QRTP and expresses a preference for a family-based setting, advocate accordingly by seeking answers to the following questions:
 - What community-based behavioral health services would meet your client's needs?
 - Can creative services be put in place that may stabilize a family-based placement (i.e., a one-to-one aide, crisis counseling/intervention at all times of day, housekeeping, respite care, transportation)?
 - Have all kin and fictive kin been explored?
 - Is the child receiving all needed services in school?
 - Who could testify in support of your position – a competing expert you retain? Family members?

Teachers? Former foster parents? A social worker or clinician affiliated with your legal organization?

- ❑ Ensure the assessment is done properly and is accurate. Consider whether:
 - the assessment was completed using an age-appropriate, evidence based, validated, functional assessment tool;
 - the assessment was conducted by an objective "qualified individual;"
 - the assessment includes diagnoses, treatment goals, and a finding of necessity of QRTP placement;
 - there is an opportunity to cross-examine the government's witnesses to show noncompliance with legal standards or gaps in decision making;
 - the family and treatment team were consulted and included; and
 - the assessor considered collateral information such as school records, mental health or other service records, or interviews with caregivers.
- ❑ Independently investigate the proposed placement and seek details including:
 - the nature and quality of the facilities (tour the facility if possible);
 - specific treatments or modalities the QRTP uses and whether they match the child's needs;
 - number of youth placed in that setting;
 - setting's rules and disciplinary procedures; and
 - staff composition and training.
- ❑ Consider how this placement will impact the youth's education. Will the youth receive transportation to his or her school of origin? If no, does the QRTP setting include an educational program onsite? Will it be able to implement the youth's Individualized Education Program, 504 plan, or other specialized supports?
- ❑ Consider how the youth can maintain supportive and meaningful contact with family or other permanent adult connections.
- ❑ Participate in treatment team meetings and monitor the youth's progress through regular client contact and contact with case managers and therapists, as appropriate.
- ❑ Ensure the youth has provided informed consent to any prescribed medication and has been told how they may feel and what to expect while on the medication.

- ❑ Advocate for a consistent policy of requiring informed consent to medication and for an independent appeal process, if none exists.⁵⁸
- ❑ Advocate for transition/discharge planning and aftercare that includes supportive adult connections beyond just a permanency plan.
- ❑ Use the independent assessment that recommended the youth's placement in a Q RTP as a roadmap. It includes a list of short and long-term treatment goals.
- ❑ Ask regularly: What needs to happen before discharge? How will we know when this child is ready for discharge? Advocate to modify treatment goals, if needed.
- ❑ What does the aftercare plan look like? What services are needed to ensure the child's successful transition? Remember the Q RTPs themselves must support the child with aftercare services for at least six months.
- ❑ If the goal is adoption or guardianship with kin, advocate for the kin caregivers to be involved in major decisions, have ongoing meaningful contact with the child, and receive services they need to have the child in their home.

Parent's counsel

- ❑ Advocate for opportunities for the parent to visit and spend time with the child. Discuss with other attorneys the child's access to a phone or computer to stay in touch with family and others.
- ❑ If your client would prefer the child be in a family-based setting where possible, advocate accordingly by:
 - presenting kin caregiver options if reunification is not yet possible;
 - exploring community-based services available for the child; and
 - retaining an expert for additional assessment and recommendations.
- ❑ Ensure the parent was offered the chance to be part of the treatment team assembled by the agency as an appropriate biological family member and that meetings were held at a convenient time and place. Encourage your client to take an active role in this team.
- ❑ If the child's permanency goal is reunification, ensure the parents are involved in all major decisions, have ongoing meaningful contact with the child, and receive services they need to have the child in their home. Advocate for the child's discharge planning to include support and involvement by the parent.

- ❑ Review the agency case plan and ensure required documentation, including of the reasonable and good faith effort of the agency to include all the individuals required to be on the child's family and permanency team. If Q RTP placement is recommended over the objection of the youth or parent, ensure the agency explains why those preferences were not followed.

Judicial decision maker

- ❑ Develop standard procedures to evaluate residential placements for treatment needs and hearings while a child remains in a Q RTP. Determine, for example:
 - whether the qualified individual who recommended Q RTP placement should testify, as a matter of practice and if that person needs to be qualified as an expert by law to provide opinion testimony.
 - whether the testimony of a provider from the Q RTP setting is required at the initial or subsequent hearings as a matter of practice.
 - what additional documentation you need before deciding whether a Q RTP placement is appropriate.
 - what information you will expect parties to present about ongoing Q RTP placement and discharge planning.

How can the legal community support Family First implementation?

- ❑ Join court or communitywide planning committees that address residential placements for treatment needs.
- ❑ Consider what state and local level action may be needed to comply with these Family First Act provisions. For example:
 - Will your jurisdiction require legislative or court rule amendments to conform to these federal requirements?
 - Could specific criteria for judges to consider in approving or disapproving Q RTP placements be offered via statute, court rule, regulation, or other guidance?
 - Will the evidence be presented to the court via a hearing? When the placement is contested among the parties, how, if at all, will court processes differ from those where the parties are willing to stipulate to the placement?
 - Should specific procedural requirements for presenting and considering evidence in Q RTP cases be enacted? Will traditional rules of evidence apply? What mechanisms are in place to ensure that



Juvenile Justice Considerations

The Family First Act provides an opportunity for collaboration between the child welfare and juvenile justice fields. This partnership could involve state-level conversations about implementing Family First to develop procedures to monitor the impact of Family First on the juvenile justice system, ensure a robust service array for all youth, and begin critical data tracking.

Tracking the impact on juvenile justice

Juvenile justice practitioners may be concerned that implementing the QRTP provisions will:

- ❑ result in reducing group care facilities that serve as a placement option for youth adjudicated dependent, and
- ❑ result in an increase in use of secure confinement for youth in delinquency matters.

Child welfare practitioners may be concerned that:

- ❑ reducing group care will create an incentive to arrest youth in the child welfare system who may then be placed in secure facilities.

However, Family First requires state IV-E plans to include certifications that “the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State’s juvenile justice system.”¹ In addition to the requirement for the agency stated in Family First, a collaborative group of child welfare and juvenile justice practitioners should track the numbers of secure confinements and urge the agency to collect and share other relevant data, such as the number of youth involved in the child welfare and juvenile justice systems.²

Tracking data on dually involved youth

The federal government is also required to study the impact of Family First’s IV-E funding group care restrictions on state juvenile justice systems. Though this study is not due until 2025, states should begin collecting and reviewing data to monitor the impact of Family First on youth involved with the child welfare system, the juvenile justice system, and both systems simultaneously. A collaborative implementation group can advocate for early

tracking and reporting. It can also urge state agencies to monitor racial and ethnic disparities in youth involved in the child welfare and juvenile justice systems. Though Family First does not require racial disparity data tracking, the legal community can support and advocate for incorporating racial and ethnic disparities data collection in systems review going forward.

Youth with delinquency cases who are eligible for foster care services

Finally, a collaborative group can also seek information on youth with delinquency adjudications who are able to access services funded by Title IV-E. Youth with delinquency adjudications may be eligible for these foster care services depending on the child’s circumstances and the type of facility in which the child is placed.³ Under Family First, Title IV-E funding can be used to pay for group placements for up to two weeks, which may offer a short-term option to avoid secure confinement. To qualify, “the child must be removed from the home of a relative pursuant to a voluntary placement agreement or as the result of a judicial determination that continuation in the home would be contrary to the welfare of the child and that reasonable efforts were made prior to placement to prevent the need for removal of the child from his home.”⁴

This funding may not be used for detention facilities or any other facilities “operated primarily for the detention of children who are determined to be delinquent.”⁵ States using Title IV-E funding for adjudicated youth beyond two weeks must also implement the Family First requirements regarding nonfamily home placements, and transparency about any changes in level of services and availability for adjudicated youth should be encouraged.

Sources

¹ Family First Act, Sec. 50741(d).

² For additional suggestions of partnering with juvenile justice advocates, see National Juvenile Justice and Delinquency Prevention Coalition, Act 4 Juvenile Justice. *Family First Prevention Services Act: Opportunities and Risks for Youth Justice and Campaigns to End Youth Incarceration*, undated.

³ See Administration for Children and Families, Children’s Bureau. *Child Welfare Policy Manual: 8.3A.1 Foster Care Maintenance Payments Program, Eligibility, Adjudicated Delinquents, Question 1*.

⁴ *Id.*

⁵ *Id.*

agency evidence can be cross-examined? To ensure parties can put on contrary evidence? To ensure adequate pretrial procedure?

- ❑ Collaborate on issues affecting QRTP creation in your jurisdiction. Initial questions to answer include:
 - How does your jurisdiction fund residential placements for children? Are Title IV-E funds used, or does your jurisdiction rely on Medicaid (for psychiatric residential treatment facilities) or state dollars for these placements?
 - How heavily does your jurisdiction rely on congregate care placements? Can an increased investment in community-based services for youth at risk of placement in congregate care reduce use of these settings?
- ❑ Invite individuals with personal experience in foster care to share perspectives about group home experiences in a context where they have support to prepare their ideas, share them safely, and can engage in ongoing reform efforts.
- ❑ Understand how the assessment is developed and weigh in on practical aspects that are important to your court, as the tool requires court engagement:
 - Who will the agency consider a “qualified individual” to administer assessments? How will such indi-

viduals be retained? Will they be asked to testify in court or otherwise participate in court proceedings?

- What assessment tool will your jurisdiction use? Will it be usable by judges in addition to clinicians?
- ❑ Consider whether a judge will be able to disapprove or otherwise end a QRTP placement after hearing evidence at a later review or permanency hearing.
- ❑ Ensure a focus on children’s school stability. What impact will QRTP placement have on those areas? How can adverse impacts be mitigated?
- ❑ Support your jurisdiction’s efforts to recruit and retain foster parents to serve high-needs children.
- ❑ Support your jurisdiction’s efforts to ensure children are not inappropriately diverted to the juvenile justice system. Offer feedback on cases involving youth involved in dependency matters and delinquency or status offense matters.
- ❑ Examine racial disparities in group care placements and seek input from young people, families, kin, and community leaders about why those disparities may exist and what local efforts could help address them directly.
- ❑ Support your jurisdiction’s Court Improvement Program and others in developing trainings on QRTP provisions as required by the Family First Act.

Group Setting



Research to Cite

Consider citing information on:

Needs of expectant and parenting youth

- Browne, Charlyn Harper. [*Expectant and Parenting Youth in Foster Care: Addressing Their Developmental Needs to Promote Healthy Parent and Child Outcomes*](#). August 2015.

Emphasizes the importance of a “two-generation approach” when seeking to meet the needs of expectant and parenting youth in foster care and their children. Also explains use of the term “expectant and parenting youth” to represent both adolescent fathers and mothers who each have roles in meeting the needs of their children.

- Dworsky, Ann & Jan DeCoursey. [*Pregnant and Parenting Foster Youth: Their Needs, Their Experiences*](#). Chicago: Chapin Hall at the University of Chicago, 2009.

Includes service provider reflections that pregnant and parenting youth in foster care engage in services more when supported by adult caregivers, as is often the case in group homes and kin care settings.

Placement needs of victims of sex trafficking

- Child Welfare Information Gateway. [*Responding to Child Victims of Human Trafficking*](#), December 2018.
Includes state laws that authorize the development of specialized housing options for minor victims of human trafficking.
- Clawson, Heather J. & Lisa Goldblatt Grace. [*Finding a Path to Recovery: Residential Facilities for Minor Victims of Domestic Sex Trafficking*](#). U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2007.
Focuses on minors who are victimized by sex traffickers

across the United States and provides practical information about the characteristics and needs of these minors and the type of residential programs and facilities currently providing services for this population.

- › Dierkhising, C. B. et al. [*Commercially Sexually Exploited Girls and Young Women Involved in Child Welfare and Juvenile Justice in Los Angeles County: An Exploration and Evaluation of Placement Experiences and Services Received*](#). Los Angeles: National Center for Youth Law: California State University, 2018.

Explores the impact of specialized services and placement type on young people who have been commercially sexually exploited in Los Angeles County, including the impact of different placement types and specialized services on placement stability, and youth experiences and preferences among those placements and services.

- › Farrell, Amy et al. [*Residential Placements for Child Trafficking Victims*](#), 2019.

Outlines policies, practices, and programming implemented across the U.S. to provide specialized responses to exploited and trafficked youth within residential placement settings.

Youth aged 18 and over in independent living settings

- › Child Trends. [*Supporting Young People Transitioning from Foster Care: Findings from a National Survey*](#), November 2017.

Explains that housing is the area most commonly reported needing improvement among older youth transition programs because “without stable housing, young people face challenges staying in school, gaining employment, accessing physical and mental health services, and reaching self-sufficiency.”

- › U.S. Government Accountability Office. [*States with Approval to Extend Care Provide Independent Living Options for Youth up to Age 21*](#), May 2019.

Identifies key factors states often consider when placing youth in supervised independent living settings including “the youth’s life skills—for example, their ability to budget finances and schedule medical appointments—as well as their education and employment status” and access to affordable housing in the area.

QRTP placements and judicial review

- › Annie E. Casey Foundation, National Association of Counsel for Children, National Center for State Courts. [*Every Kid Needs a Family*](#) website.

Offers information and advocacy tools to assist judges, attorneys, and advocates in making decisions regarding the placement of children that reflect the least restrictive, most family-like setting possible for each child under court jurisdiction.

- › Chiamulera, Claire. “[*Reducing Congregate Care Placements: Strategies for Judges and Attorneys*](#).” *Child Law Practice Today*, Sept. 5, 2018.

An interview with Judge Kim Berkeley Clark of Allegheny County, PA that explains the role of judges in partnering with other child welfare stakeholders to reduce the county’s use of congregate care placements by 60% after focusing on using group settings only for children with severe mental health or substance abuse treatment needs.

- › National Center for State Courts. [*A Judicial Toolkit for Safely Reducing Reliance on Group Home Placements for Children in the Child Welfare System*](#), undated.

Provides judges and judicial officers guidance about how to safely reduce reliance on congregate care placements recognizing the fact that “close to half of children placed in non-family based placements do not have a documented clinical or behavioral need that would warrant such a placement.”

- › National Foster Care Youth and Alumni Policy Counsel. [*A Historic Opportunity to Reform the Child Welfare System: Youth and Alumni Priorities on Quality Residential Services*](#), February 2020.

Elevates the policy priorities of youth with lived experience in foster care in shaping residential treatment settings such as Qualified Residential Treatment Programs.

Elements of effective specialized residential treatment

- › Casey Family Programs. [*Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study*](#), 2005.

This seminal study of long-term foster care outcomes found foster care alumni experience mental health, educational, and employment challenges at significantly higher rates than the general population. Among other findings, the report suggests more effective access to mental health supports while in care, including counseling and nonmedication interventions, as well as greater training for foster parents on youth mental health needs, would produce greater stability and fewer placement disruptions for youth who experience foster care.

- › Magellan Health Services Children's Health Services Task Force. [*Perspectives on Residential and Community-Based Treatment for Youth and Families*](#), 2008.

Explains that treatment facilities with more successful outcomes share common factors of family involvement, discharge planning, and community involvement and resources, and evidence exists that most gains in residential treatment are made in the first six months.

Inappropriate diagnoses of mental illness

- › Fernandes-Alcantara, Adrienne L., Sarah W. Caldwell & Emilie Stoltzfus. [*Child Welfare: Oversight of Psychotropic Medication for Children in Foster Care*](#). Washington, DC: Congressional Research Service, February 17, 2017.

Notes statistical findings that 48.2% of all children in group settings have been prescribed psychotropic medication within six months of foster care entry and 11.8% to 19.5% of children in foster family home settings are prescribed psychotropic medication. This report cites a "paucity of psychosocial services available" as a leading cause of overprescription of psychotropic medication for children in foster care.

- › Solchany, JoAnne. [*Psychotropic Medication and Children in Foster Care: Tips for Advocates and Judges*](#). Washington, DC: ABA Center on Children and the Law, 2011.

Examines reasons why children in foster care have a higher rate of misdiagnosis and over-prescription of psychotropic medications and explaining example protocols that public agencies and the child welfare legal field can put in place to address these risks.

- › U.S. Department of Health and Human Services, Administration for Children and Families. Information Memorandum, [*Promoting the Safe, Appropriate, and Effective Use of Psychotropic Medication for Children in Foster Care*](#), April 11, 2012.

Provides federal guidance on state oversight requirements through state plans and monitoring and explaining that "Practices that may be of concern include instances where children are prescribed too many psychotropic medications, too much medication, or at too young an age: too many, and too much, too young."

Educational stability and school of origin access

- › Legal Center for Foster Care and Education. "[How to Ensure Educational Success for Dependent Youth in Congregate Care](#)." *Child Law Practice* 33, November 2014.

Explains that "for many children living in congregate care settings, a school in the community is the most appropriate education setting" because it "reduces stigma, gives the youth access to a full range of educational opportunities, and is often the least-restrictive environment for a youth with special education needs. Public schools are also more likely to have aligned curricula and to recognize credits from other public schools. This allows for smoother school transitions for these highly mobile youth."

Ensuring group settings meet the "reasonable and prudent parent" standard

- › Epstein, Heidi Redlich & Anne Marie Lancour. "[The Reasonable and Prudent Parent Standard](#)." *Child Law Practice* 35, October 2016.

Explains that under federal law a "caregiver" must be appointed to apply the reasonable and prudent standard for children who reside in congregate or institutional care and the child welfare agency must provide the court with information that the reasonable and prudent parent standard is being followed.

Statutes and caselaw supporting the most appropriate placement for an older youth

- › Juvenile Law Center. [Transition to Adulthood Litigation Resources](#) (web page).

Shares resources for attorneys representing older youth in child welfare matters who are interested in sharing, learning, and brainstorming legal strategies for improving service delivery, policies, and outcomes for older youth. This page contains summaries of cases relevant case law, federal laws related to older youth, and a list of resources.

a. Reunification services for the family

What does this provision do?

The Family First Act expands the period when a family can receive reunification services available under Title IV-B, a smaller, but important source of child welfare funding.⁵⁹ Previously, a family would be eligible for federally supported reunification services for only 15 months total, beginning on the date when a child entered foster care. Now, a family is eligible for federally supported reunification services during the full period a child lives in foster care and for up to 15 months after the child has reunified with family.

The Title IV-B Family Reunification Services section describes the services that should be provided to a child and family when the child has been removed from the home “to facilitate the reunification of the child safely and appropriately within a timely fashion and to ensure the strength and stability of the reunification.”⁶⁰ These services may include counseling, substance use treatment, assistance to address domestic violence, peer mentoring, visitation, and transportation.⁶¹

Why was this provision included?

This Family First Act provision recognizes the value of planning for safe reunification between children and parents and providing continued support after the child returns home. Providing states improved access to federal funds for reunification services aligns with the federal Children's Bureau's renewed focus on reasonable efforts to achieve permanency requirements. Families should be provided all needed assistance to ensure the safe reunification of the child. (See reasonable efforts resources in *Research to Cite: Reunification Services for the Family*.)

How does this provision work?

Family First expands the Family Reunification Services section by:

- ❑ Expanding the period of eligibility for reunification services that can begin as soon as a child enters foster care and can continue for up to 15 months after a child has reunified with family. This change allows an agency to reunify a child and parent as soon as it is safe to do so and support the family with valuable assistance for a longer period.
- ❑ Reflecting this important change in timing by retitling the section of IV-B to “Family Reunification Services” rather than “Time-Limited Family Reunification Services.”

How can the legal community use this provision to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ As with all services, ensure the agency is providing reunification services tailored to the needs of the family. Not all families need the same assistance.
- ❑ Ensure reunification services begin promptly, continue during the child's time in foster care, and extend for up to 15 months after reunification is achieved.

Parent's or child's counsel

- ❑ For families that would benefit from 15 months of post-reunification services, advocate with the agency and court, as necessary, for the family to receive the support, whether before or after reunification.
- ❑ Work with your clients to encourage use of services and to address access barriers. Incorporate social worker and peer advocate members of a multidisciplinary legal team where those resources exist to help access services.
- ❑ In cases in which the child can safely return, but the agency is waiting to see if “something changes,” emphasize that service providers will be working with the family to support them through any unforeseen situations.
- ❑ When necessary, argue to the court that by not providing a reunified child with appropriate services, the agency is not making mandated reasonable efforts to achieve permanency.

Judicial decision maker

- ❑ Determine whether reunification services are being provided, especially services related to substance use treatment, counseling, domestic violence, peer mentoring, visitation, and transportation. If services are not being accessed, seek information about barriers to those services.
- ❑ Make clear that parties need not wait until the next scheduled hearing for a child to return home if safety risks have been addressed. Indicate whether a motion for an accelerated hearing is needed for reunification to occur or if no notice to the court is required.

How can the legal community support Family First implementation?

- ❑ Learn how your state or tribe allocates its IV-B resources.
- ❑ Consider with other stakeholders what opportunities exist to use IV-B resources to expand or complement existing Family Reunification Services.

- ❑ Ensure appropriate Family Reunification Services are available to families throughout your state or tribe, not only in resource-rich urban areas.
- ❑ Determine how your agency provides reasonable efforts to return children to their homes in every case. Further identify how it provides supportive reunification services for as long as necessary for the child to safely transition back into the home so the family remains stable and the child is not at risk of reentering foster care.

Reunification Services for the Family



Research to Cite

Consider citing information on:

Reasonable efforts to reunify

- › Edwards, Judge Leonard. “[Overcoming Barriers to Making Meaningful Reasonable Efforts Findings](#).” *ABA Child Law Practice*, January 29, 2019.

Explains that it is not enough to make service referrals and note them in a case plan. Instead, “judges should discuss the availability and effectiveness of services provided by service providers contracted by the agency,” and “frontline social workers should accurately assess family needs and report those needs to the court. Those needs should form the foundation of the case plan.”

- › Quality Improvement Center Collaborative Community Court Teams and ABA Center on Children and the Law. [Reasonable and Active Efforts, and Substance Use Disorders: A Toolkit for Professionals Working with Families in or at Risk of Entering the Child Welfare System](#), undated.

Addresses some of the challenges presented in making reasonable and active efforts and related judicial findings in cases involving substance use. The toolkit provides definitions, statutory requirements, examples of reasonable and active efforts, and a resource guide for further reading.

- › U.S. Department of Health and Human Services, Administration on Children, Youth and Families. [ACYF-CB-IM-20-06, Foster Care as a Support to Families](#), April 29, 2020.

Provides examples of how agencies and courts can provide meaningful efforts to reunify children and parents and safely maintain that reunification, including using resources families as an ongoing support.

The relationship between meaningful parent-child contact during a child's foster care placement and reunification

- › Laver, Mimi. “[Family Time/Visitation: Road to Safe Reunification](#).” *Child Law Practice Today*, March/April 2017.

Highlights visitation or family time practices that can improve the experience and outcomes for children and families.

- › U.S. Department of Health and Human Services, Administration on Children, Youth and Families. [ACYF-CB-IM-20-02, Family Time and Visitation for Children and Youth in Out-of-Home Care](#), February 5, 2020.

Encourages a transition in the field from viewing child and family contacts while in foster care “less as ‘visits’ and more as ‘family time’” to underscore “the critical importance of the length and quality of time that children spend with their parents, separated siblings, and other important family members.”

- › White, Maryellen, Eric Albers & Christine Bitonti. “[Factors in Length of Foster Care: Worker Activities and Parent-Child Visitation](#).” *Journal of Sociology & Social Welfare* 23, 1996, 75.

Finds reduced time to reunification is connected not only to more frequent parent-child visitation, but also to increased social worker contact with parents, which increases the frequency of the parent's visitation.

Use of Title IV-B funding

- › Child Trends. [Title IV-B Spending by Child Welfare Agencies](#), December 2018.

Provides a background on the Title IV-B spending options and an overview of state agency IV-B spending from 2006 to 2016.

b. Older youth supports

What do these provisions do?

The Family First Act makes several improvements to the John H. Chafee Foster Care Independence Program that benefit older youth and young adults who have experienced foster care, including extending the age of eligibility.⁶² The Act also renames the program the John H. Chafee Foster Care Program for Successful Transition to Adulthood, reflecting an emphasis on effectively preparing youth for adulthood and life beyond foster care. Family First further addresses a documentation challenge that youth exiting foster care often face when trying to access services.⁶³

Why were these provisions included?

The Chafee program provides flexible funding to states and tribes to design and implement various transitional programs for the benefit of older youth and young adults who have experienced foster care. (The Family First Act does not provide additional funding for the Chafee program, though it does permit states and tribes to seek undistributed Chafee funds from the previous year.) These programs may include assistance obtaining a high-school diploma or postsecondary degree, career services, job training, and life skills supports.⁶⁴ Recognizing that older youth and young adults require comprehensive, ongoing support beginning in their teenage years through adulthood, the Family First Act makes several improvements to current Chafee provisions. Additionally, it expands the vital documents that must be provided to youth and young adults exiting care so they can more easily access services and prepare for adulthood.

How do these provisions work?

Expands the age of eligibility

Previously, Chafee-funded programs were only available to former foster youth between ages 18 and 21. Under the Family First Act, the age of eligibility begins at age 14 and extends to age 23 in states and tribes that have opted to receive federal reimbursement to extend foster care to age 21, as permissible under the Fostering Connections to Success and Increasing Adoptions Act. Additionally, states and tribes that HHS determines provide comparable state-funded supports and services to youth who have aged out up to the maximum state or tribal age of 21 may also extend Chafee services to age 23. This Family First expansion of the group of youth eligible for Chafee-funded services reflects a priority of the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Strengthening Families Act), which requires that youth engagement in transition planning begin at age 14, rather than the previous start age of 16.⁶⁵ Together, these laws reflect an understanding of the need

for targeted and youth-centered planning and support and services for the transition from foster care to adulthood.

The Education Training Voucher (ETV) program is designed to support youth in foster care, youth who were adopted or entered kinship guardianship from foster care after turning 16, and youth who aged out of foster care.⁶⁶ Youth may be eligible to receive up to \$5,000 per year to support the cost of attending a postsecondary education or vocational training program. Before Family First, youth were only eligible for ETVs between ages 16 and 23. Now, states and tribes may provide youth who are at least 14 years old access to these vouchers up to age 26. However, youth are not eligible for these vouchers for more than five years total. The value of these vouchers varies from state to state but cannot exceed \$5,000 per year.

Requires access to records and documents

In addition to improving opportunities within the Chafee program, the Family First Act builds on other existing supports for older youth and young adults. The Strengthening Families Act required states to provide youth who exit care at age 18 or older certain vital documents, such as social security cards and birth certificates.⁶⁷ Now, under Family First, youth exiting care must also be provided documentation that they were in foster care, which will help them access benefits and services including health care coverage under the Affordable Care Act.

How can the legal community use these provisions to inform legal advocacy and judicial decision making?

Child welfare agency counsel

- ❑ Ensure agency staff inform youth who are exiting foster care of documents they should have before they exit care and provide those documents.
- ❑ Ensure youth begin youth-centered transition planning at age 14 and are aware of all available services and supports, including those through the Chafee and ETV programs.

Child's counsel

- ❑ Inform clients about services, programs, and benefits for which they might be eligible and assist the youth or young adult to enroll in and receive all available supports.
- ❑ Advocate for a case plan individualized to the youth's needs and that includes active and meaningful engagement of the youth in developing the plan.

- ❑ Ensure clients receive the necessary documentation upon exiting foster care.
- ❑ Although Family First does not change current transition planning requirements, the improvements to Chafee under the Act make it more important than ever for attorneys to advocate in court for robust, comprehensive, and youth-centered transition services and planning starting at age 14.

Judicial decision maker

- ❑ Meaningfully engage youth in legal hearings to learn what Chafee and other program services they are being offered, what other resources they want, their interests, and their plans for the future. Enter relevant orders to help youth achieve those goals.
- ❑ Ensure that youth-centered transition planning begins at age 14 and that youth exiting foster care have all necessary documents.

How can the legal community support Family First implementation?

- ❑ Partner with youth in implementing the older youth provisions of the law and ensure meaningful youth engagement in system reform.

- ❑ If your state or tribe currently offers state or federally funded extended foster care, advocate extending Chafee services up to age 23.
- ❑ Advocate for the state or tribe to extend eligibility for ETVs up to age 26 and ensure the limitations on duration are understood by youth, legal professionals, and program services professionals.
- ❑ Seek support for extending age eligibility by sharing research on brain and developmental science and supporting data.⁶⁸
- ❑ Join discussions in your jurisdiction about older youth and young adults in foster care and ensure courts know about potential changes in eligibility at the state level.
- ❑ Continue to support youth engagement in court cases and case planning, including creating a youth-centered system.
- ❑ Use these provisions to reemphasize other federal requirements on supporting youth in their transition to adulthood and ongoing permanency.



Research to Cite

Consider citing information on:

Needs of youth aging out of foster care

- › Altschuler, David et al. [*Supporting Youth in Transition to Adulthood: Lessons Learned from Child Welfare and Juvenile Justice*](#). Washington, DC: Center for Juvenile Justice Reform, 2009.

Provides recommendations to improve outcomes for transition-age youth involved in the child welfare system, juvenile justice system, or both.

- › Courtney, Mark et al. [*Planning a Next-Generation Evaluation Agenda for the John H. Chafee Foster Care Independence Program*](#), OPRE Report #2017-96. Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2017.

Identifies key components of the transition from foster care to adulthood and a typology that classifies independent living services into 10 service categories to inform effective planning for relevant programs.

- › Peters, Clark M. et al. [*Extending Foster Care to Age 21: Weighing the Costs to Government against the Benefits to Youth*](#). Chicago: Chapin Hall at the University of Chicago, 2009.

Estimates the costs and benefits of extending the availability of foster care placement for youth aged 18-21, and concluding that the potential benefits to foster youth and society will more than offset the costs to government.

Adolescent brain science developments

- › ABA Center on Children and the Law, Youth Engagement Project. [*Adolescent Brain Toolkit*](#), 2019.

Provides a collection of resources that offer opportunities for child welfare legal professionals to learn about adolescent brain science, incorporate it into individual practice and systemic reform, and create a more supportive environment for young people experiencing foster care.

- › Annie E. Casey Foundation. [*The Road to Adulthood: Aligning Child Welfare Practice with Adolescent Brain Development*](#), 2018.

Offers recommendations for child welfare professionals, caregivers, and systems to use adolescent brain research

to work effectively with youth in or emerging from foster care.

- › Jensen, F. E. & A. E. Nutt. *The Teenage Brain: A Neuroscientist's Survival Guide to Raising Adolescents and Young Adults*. New York, NY: HarperCollins Publisher, 2015.

Provides a detailed description of adolescent brain science for parents and caregivers, and connecting brain development to the effects of adolescents' experiences of learning, risk-taking, substance use, stress, and other areas.

- › Steinberg, L. *Age of Opportunity: Lessons from the New Science of Adolescence*. New York, NY: First Mariner Books, 2014.

Offers information about adolescent brain science, including the areas that are most active and undergoing the most change, with the goal of informing the national conversation about how to improve the well-being of adolescents.

- › National Academies of Sciences, Engineering, and Medicine. 2019. [*The Promise of Adolescence: Realizing Opportunity for All Youth*](#). Washington, DC: The National Academies Press, 2019.

Examines the neurobiological and socio-behavioral science of adolescent development and outlining how this knowledge can be used to promote adolescent well-being, resilience, and development, and rectify structural barriers and inequalities in opportunity, helping all adolescents flourish.

Whether your state accesses the full federal funding available for Chafee programs

- › Congressional Research Service. [*Youth Transitioning from Foster Care: Background and Federal Programs*](#), Appendix A, May 2019.

Provides a table of Chafee General program and Educational Training Voucher program funding for states, the District of Columbia, Puerto Rico, and select tribes in FY 2018 and FY 2019.

Other federal laws supporting older youth in foster care and those transitioning to adulthood

- › ABA Center on Children and the Law. [*Quick Guide: Federal Laws Supporting Youth in Foster Care Transitioning to Adulthood*](#), 2019.

Provides an overview of federal laws designed to support the needs of older youth in foster care and those transitioning to adulthood.

What do these provisions do?

The Family First Act provides additional direction to the child welfare community in several areas, discussed below.

Why were these provisions included?

These assorted provisions support the Act's overarching goals of ensuring the safety of children with their families and in foster care and strengthening family home-based support.

How do these provisions work?

Some provisions directly affect courts and legal professionals:

- ❑ The Family First Act reauthorized the **Court Improvement Program (CIP) grants**.⁶⁹ Since 1993, the federal government has provided CIP funding to the highest court in each jurisdiction with the goals of improving the legal processes in the child welfare system, improving outcomes for children and families, and enhancing collaboration between courts, child welfare agencies, and tribes.⁷⁰ Under Family First, CIPs must also “provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not a foster family home.”⁷¹

CIPs have begun planning and offering these trainings on nonfamily home placement, the related IV-E reimbursement requirements, and other Family First provisions, often in partnership with the state child welfare agency.

- ❑ The Family First Act reauthorized the **Regional Partnership Grant (RPG) Program**, a Title IV-B resource offered to states and tribes to improve the well-being of children and families affected by a parent or guardian's substance use disorder.⁷² These funds continue to support interagency collaborations and service coordination, but Family First amended certain elements, including the overall goals, application process, team composition, and grant distribution. Representatives from the juvenile court or Administrative Office of the Court remain required partners for partnership grants serving children in out-of-home care.

Other provisions direct state Title IV-E agencies to:

- ❑ Improve interstate placements by creating a centralized **electronic interstate case processing system** by October 1, 2027.⁷³ The Family First Act authorizes \$5 million

of IV-B funding to develop a system for exchanging data and documents to speed placement of children across state lines for foster care, adoption, or guardianship arrangements.

- ❑ Document in their IV-B Child Welfare Services program plan a **statewide plan to prevent child abuse and neglect fatalities**.⁷⁴ The plan must include information on how the comprehensive, statewide plan engages public and private agency partners, including those in public health, law enforcement, and the courts.
- ❑ Comply with **data and reporting requirements** for state and tribal IV-E agencies, primarily regarding children placed in nonfoster family home settings.⁷⁵ The U.S. Department of Health and Human Services must also submit a number of written reports to Congress.⁷⁶

Several provisions benefit and support children in temporary out-of-home care, guardianship arrangements, and adoptive families.

- ❑ As part of its emphasis on the value of family-based foster homes when children must be removed from their parents, Family First provides **added supports for foster families**. Community-based services designed to support and retain foster families can now be offered as part of Title IV-B's Family Support Services, in addition to the services for the child's family.⁷⁷ Additionally, \$8 million in competitive grants are available through FY2022 for states and tribes to support the **recruitment and retention of high-quality foster families**.⁷⁸ These grants target jurisdictions with the highest percentages of children in nonfoster family settings.
- ❑ Family First also **reauthorizes the Adoption and Legal Guardianship Incentive Program** (through FY2021), which provides states with award payments based on increased exits of children from foster care to adoption or guardianship.⁷⁹
- ❑ The Family First Act section on “**ensuring states reinvest savings resulting from increases in adoption assistance**” delays the increased federal adoption assistance reimbursement for some children under age two until July 1, 2024.⁸⁰ Immediately before enactment of Family First, financial assistance was available for the adoption of children with special needs over age two regardless of the child's eligibility for AFDC (pre-TANF cash assistance). Under Family First, that group will expand to include children with special needs⁸¹ of any age on July 1, 2024.

How can legal advocates support implementation?

- ❑ Participate in Family First trainings organized by your state Court Improvement Program (CIP), and help develop future trainings on areas of interest, such as promising practices, challenges, or inconsistent practice across local jurisdictions.
- ❑ Implementing Family First also provides an opportunity for practitioners and advocates focused on child welfare, juvenile justice, runaway and homeless youth, and other areas to engage in cross-training and collaboration.
- ❑ Become (or remain) active in statewide or local CIP-led system improvement efforts.
- ❑ Determine whether your jurisdiction's Regional Partnership Grant includes required partners, such as juvenile court representatives, and ensure the needs of children and families affected by heroin, opioid, and other substances are being addressed.
- ❑ Monitor development of the electronic statewide system and increased timeliness of placements across state lines. Improve policy and practice on the interstate placement of children that is consistent with—but does not exceed—the requirements of the Interstate Compact on the Placement of Children (ICPC).⁸²
 - Advocate for faster processing of ICPC cases at the individual case level.

Conclusion

The Family First Act creates opportunities for attorneys and judicial decision makers to improve the child welfare system. Soon after this law passed in 2018, legal professionals recognized the importance of understanding what those opportunities are and how to adapt legal practice accordingly to the benefit of children and families. The legal community also clearly expressed an interest in tools that explained what changes to child welfare practice Family First makes, both broadly and in a legal setting.

In response, this legal guide is designed to help attorneys, judges, magistrates, and court personnel understand how Family First amends federal law and common legal practice and recognize options for tailoring it to advance legal advocacy and judicial decision making. In addition to using the specific provisions within this law, one of our main goals is for the legal community to use this tool to understand the purpose behind each provision.

Understanding the “why” behind Family First helps ensure implementation efforts throughout the country focus on incorporating the specifics of the law into legal practice and on achieving end goals of the Act—goals like reducing entries into foster care, providing more expansive services for parents, supporting kin caregivers, ensuring children can live in a family setting, facilitating safe reunification, and supporting older youth transitioning from foster care.

This legal guide offers a starting point for understanding the Family First Act and how it can inform and improve legal practice and judicial decision making. The ABA Center on Children and the Law also offers tailored trainings and facilitated jurisdiction-based conversations about implementing Family First at the local level, for legal professionals to hold in collaboration with child welfare agencies. To learn more, contact Cristina Cooper, cristina.cooper@americanbar.org.



Timeline of Effective Dates of Family First Act Provisions¹

February 9, 2018

- › Family First Prevention Services Act is enacted.
- › Changes to the renamed John H. Chafee Foster Care Program for Successful Transition to Adulthood, including the option for states to extend age of eligibility for Chafee-funded programs and Education Training Vouchers, are effective.
- › Requirement that states provide youth exiting foster care with documentation that they were in foster care is effective.
- › Court Improvement Program (CIP) grants are reauthorized through FY2021, and the requirement is added for CIPs to provide training for judges, attorneys, and other legal personnel in child welfare cases on nonfamily foster settings.
- › Adoption and Legal Guardianship Incentive Program is reauthorized for an additional five years (through FY2021), as if enacted on October 1, 2017.

October 1, 2018

- › Opportunity becomes available for states to seek federal reimbursement for costs of placing with a parent in a family-based substance use treatment setting.
- › Changes to former time limits for reunification services funded by Title IV-B become effective.
- › States may access Title IV-E funds for kinship navigator programs.
- › Regional Partnership Grant Program is reauthorized.
- › The U.S. Department of Health and Human Services (HHS) can provide states funding to develop electronic interstate case-processing systems.

April 1, 2019

- › Deadline for states to share with HHS how their foster family home licensing standards align with the HHS model standards.

October 1, 2019

- › States and tribes may begin accessing federal funds for prevention services starting on this date. States and tribes can also choose to delay implementation for up to two years (October 1, 2021).
- › Provisions regarding nonfamily foster care settings (such as Qualified Residential Treatment Programs) become effective. States and tribes have the option to delay implementation by up to two years, until October 1, 2021. States electing to delay implementation in this area may not access Title IV-E reimbursement for prevention services until the nonfamily placement restrictions take effect.²

¹ This timeline reflects effective dates for Family First Act provisions that are highlighted in this legal guide. For the effective dates of other Family First provisions, see Children's Defense Fund and Partners, [Implementing the Family First Prevention Services Act Q&A Tool](#), 2020, Sec. 10.A.

² See Family First Act, Sec. 50746(b).

State Definitions of “Candidate for Foster Care” for Prevention Services

“Candidates for foster care” who are at imminent risk of removal from their homes are one of the groups eligible for prevention services under the Family First Act. The Children’s Bureau has not provided a detailed definition of that term, allowing states and tribes to determine under what circumstances children may be eligible. This is not the first use of the term in federal child welfare guidance. Before Family First, state child welfare agencies were able to access federal funds for administrative costs related to children “at imminent risk of removal” from their home, including costs related to making reasonable efforts to prevent the need for removal or pursuing removal.¹ Guidance in the Children’s Bureau’s Child Welfare Practice Manual refers to these children as “candidates” for foster care.²

Before the Family First Act was enacted, at least five states included the term “candidate for foster care” in administrative codes. (Several other states included definitions in agency policy manuals that echo these legal definitions, but those are not included in the table below.) These definitions largely served to identify the circumstances that allowed state agencies to recoup administrative expenses from the federal government. States now have opportunities to adapt existing definitions or—like states without preexisting legal references to the term—create new references to “candidate for foster care” to define the population eligible for federally-funded prevention services. Several states have done so already. Table 1 below highlights selected “candidate for foster care” references before and since enactment of Family First.

Other states can draw from these statutory and administrative examples that followed enactment of Family First. Several mirror the Family First language and reflect the types of services available. Others provide additional information. State teams developing prevention programs can also review more detailed descriptions of “candidacy” included in Family First prevention program plans that state agencies have drafted or submitted for Children’s Bureau approval.³

These plans include much more detail about how states intend to meet the needs of families in their jurisdictions. For example, a state may prioritize prevention services for families with substance-exposed newborns and parents, children and youth of a certain age, children and youth currently involved in the juvenile justice system, families at risk of adoption or guardianship disruptions, or recently reunified families.

Table 1. State Use of “Candidate for Foster Care”

Colorado	
Before Family First Enactment	Child at risk of imminent placement out of the home, whether through a voluntary placement agreement or court-ordered custody with the child welfare agency. A determination must be made as to whether the child is at imminent risk of removal from the home no less frequently than every six (6) months, and reasonable efforts shall be made to prevent the removal of the child from the home. 12 Colo. Admin. Code § 2509-7:7.601(L).
After Family First Enactment	Authorizes establishing and implementing a foster care prevention services program for families with children and youth who are candidates for foster care but who can safely remain at home or in a kinship placement with services, including children and youth who, without intervention, risk involvement with the child welfare system. Colo. Rev. Stat. § 26-5.4-103.
Hawaii	
Before Family First Enactment	Child at imminent risk of removal from the home if reasonable efforts are being made to prevent the need for, or if necessary, to pursue, removal of the child from the home. The child welfare agency must make, not less often than every six months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home. Haw. Admin. Rules § 17-617-23.
Kentucky	
After Family First Enactment	Refers to the federal Family First Act definition of “candidate for foster care” codified at 42 U.S.C. § 675(13). 922 Ky. Admin. Reg. 1:565 § 1(6).

Table 1. State Use of “Candidate for Foster Care”

Mississippi	
Before Family First Enactment	Refers to federal Child Welfare Policy Manual definition and adds, “If a child is in an open protection service case in which at least one child in the family is at serious risk of removal from home and services are being provided to prevent placement as documented in the Family Service Plan (FSP), the child is considered a candidate for foster care.” Miss. Admin. Code Pt. 6, CII(B).
New Mexico	
Before Family First Enactment	<p>A foster care candidate is a child at serious risk of removal from home where the agency is either pursuing the child's removal from the home or making reasonable efforts to prevent the child's removal from the home.</p> <p>A child may be considered a foster care candidate when a child is determined to be conditionally safe and the risk of maltreatment is moderate or high, or when a child is determined to be unsafe.</p> <p>A child may be determined to be a foster care candidate at any point during the in-home services case when there has been a change in a family’s circumstances that affects the safety of a child. Foster care candidacy must be redetermined for the child every six months. N.M. Admin. Code §§ 8.10.6.7(O), 8.10.6.10</p>
Utah	
After Family First Enactment	<p>Defines a “prevention candidate” as a child under age 18 when at serious risk of entering or reentering foster care, but able to remain safely in the home or kinship placement as long as mental health, substance use disorder, or in-home parent skill-based programs or services for the child, parent, or kin caregiver are provided. A child may be at serious risk of entering foster care based on circumstances and characteristics of the family as a whole and/or circumstances and characteristics of individual parents, children, or kinship caregiver that may affect the parents’ ability to safely care for and nurture their children. Utah Admin. Code § R512-100-2(5).</p> <p>The Administrative Code further clarifies what assessments may be used to determine the eligibility of a child or family for prevention services and when services may be provided. Utah Admin. Code § R512-100-5(4)-(5).</p>
Virginia	
Before Family First Enactment	Child at imminent risk of entry into foster care. Virginia Admin. Code § 40-201-20(F).
Washington	
After Family First Enactment	<p>Defines “child who is a candidate for foster care” to be one who the agency identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs needed to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of disrupting or dissolving that would result in a foster care placement.</p> <p>Specifies that this definition include a child for whom there is reasonable cause to believe the child has been abandoned by the parent; the child has been abused or neglected; there is no parent capable of meeting the child's needs; or the child is otherwise at imminent risk of harm. Wash. Rev. Code §§ 74.13.020(5); 26.44.020(6).</p>



¹ 42 U.S.C. § 672(i)(2).

² Administration for Children & Families, Children’s Bureau. Child Welfare Policy Manual: 8.1D Candidates for Title IV-E foster care..

³ See Chapin Hall & Casey Family Programs. Family First Prevention Services Act: Candidacy by Jurisdiction, 2020; See also [a list](#) of states that have submitted a IV-E Prevention Program Five-Year Plan for Children’s Bureau approval.

Key Federal Laws to Incorporate into Advocacy

In your advocacy or judicial decision making, consider including relevant federal law that complements Family First, in addition to state law and policy. These statutory provisions have been amended over time by federal child welfare laws that include the Adoption Assistance and Child Welfare Act of 1980, Adoption and Safe Families Act of 1997, Fostering Connections to Success and Increasing Adoption Act of 2008, Preventing Sex Trafficking and Strengthening Families Act of 2014, and the Every Student Succeeds Act of 2015.

 Prevention Services	
42 U.S.C. § 671	<p>(a)(15) Requires child welfare agencies to make reasonable efforts to preserve families and prevent removal, unless certain exceptions apply. See also 45 CFR 1356.21(1).</p> <p>(e) Explains requirement for states to receive 50% federal funding reimbursement.</p>
42 U.S.C. § 672	<p>(a)(2)(A) Foster care placement requires either a voluntary placement agreement entered into by the child's parent or legal guardian or a judicial determination that child's continuation in the home would be "contrary to the welfare of the child" and "reasonable efforts" to prevent removal have been made by the child welfare agency as required by 42 U.S.C. § 671(a)(15).</p>
42 U.S.C. § 675	<p>(13) Defines the term "candidate for foster care" generally as a child 'identified in a prevention plan ... as being at imminent risk of entering foster care...but who can remain safely in the child's home or in kinship placement as long as services...necessary to prevent the entry of the child into foster care are provided.</p>
 Co-Placement with Parent	
42 U.S.C. § 671	<p>(a)(15) Requires child welfare agencies to make reasonable efforts to preserve families and prevent removal, unless certain exceptions apply. If the child has been removed, also requires reasonable efforts to make it possible for a child to safely return to the child's home.</p>
42 U.S.C. § 672	<p>(a)(2)(A) Foster care placement requires either a voluntary placement agreement entered into by the child's parent or legal guardian or a judicial determination that the child's continuation in the home would be "contrary to the welfare of the child" and "reasonable efforts" to prevent removal have been made by the child welfare agency as required by 42 U.S.C. § 671(a)(15).</p>
42 U.S.C. § 675	<p>(1) Defines the term "case plan" to include inter alia a description of safety and appropriateness of the placement, a plan for assuring proper services to the child, parents and foster parents, and health and education records of the child.</p> <p>(5)(A) Requires that a child be placed in the least restrictive, most family-like setting available while in foster care.</p> <p>(5)(E) Codifying requirement of the Adoption and Safe Families Act (ASFA) (P.L. 105-89). Provides that if a child is in foster care for 15 out of 22 months the agency is expected to seek termination of parental rights (TPR) unless there are compelling reasons not to do so, the child is living with a relative, or the agency has failed to provide reasonable efforts in support of reunification.</p>



Foster Family Setting

42 U.S.C. § 671	<p>(a)(19) Prioritizes a child's placement with a relative.</p> <p>(a)(24) Requires that the child's foster family home follow the reasonable and prudent parent standard, as defined at 42 U.S.C. § 675(10) (colloquially known as the "normalcy" provision).</p> <p>(29) Requires state agencies to exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of a child who has entered foster care.</p>
42 U.S.C. § 675	<p>(5)(A) Requires that a child be placed in the least restrictive, most family-like setting available while in foster care.</p> <p>(10) Defines "reasonable and prudent parent standard" to be the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the child's emotional and developmental growth, that a foster parent shall use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.</p>



Group Setting

42 U.S.C. § 671	<p>(a)(10) Requires that a child's group care setting follow the reasonable and prudent parent standard, as defined at 42 U.S.C. § 675(10) (colloquially known as the "normalcy" provision).</p>
42 U.S.C. § 675	<p>(5)(A) Requires that a child be placed in the least restrictive, most family-like setting available while in foster care.</p> <p>(10) Defines "reasonable and prudent parent standard" to be the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the child's emotional and developmental growth, that a congregate care setting shall use when determining whether to allow a child in foster care to participate in extra-curricular, enrichment, cultural, and social activities.</p>



Reunification Services

42 U.S.C. § 629a	<p>(a)(7) Defines family reunification services eligible for federal funding under Title IV-B that are no longer time limited while in foster care and may be available to families for up to 15 months after the child returns home.</p>
42 U.S.C. § 671	<p>(a)(15) Requires reasonable efforts to make it possible for a child to safely return to the child's home.</p>



Supports for Older Youth

42 U.S.C. § 675	<p>(1)(B) Requires youth engagement in transition planning to begin at the age of 14.</p> <p>(1)(D) Requires case plans for youth over age 14 to include a written description of the programs and services which will help the youth prepare to transition from foster care to adulthood.</p> <p>(5)(C)(i) The court must make findings as part of a permanency hearing about the services needed to assist a youth aged 14 or older to transition from foster care to a successful adulthood.</p>
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42 U.S.C. § 675	<p>(5)(C)(iii) Requires procedural safeguards to assure that in any permanency hearing regarding the transition of a youth from foster care to adulthood, the court must consult with the child regarding the proposed permanency or transition plan.</p> <p>(5)(C)(iv) For a youth 14 or older, any revision or addition to the permanency plan must be developed in consultation with the youth and, if the youth chooses, with two members of the permanency planning team who the youth selects, and who are not a foster parent or caseworker. One individual selected by the youth shall be designated as the youth's advisor and, as necessary, advocate, regarding the application of the reasonable and prudent standard for youth engagement in normalcy activities.</p> <p>(5)(H) At a minimum 90 days before a young person is set to age out of foster care the child welfare agency must provide the child with assistance and support developing a transition plan that includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.</p> <p>(5)(I) For all youth who are over 14, the state must provide, each year the youth remains in care and without cost, a copy of all consumer reports pertaining to them and assistance resolving any issue identified in the report. The state must also provide any youth who exits care after age 18 an official or certified birth certificate, a social security card, health insurance information, a copy of all medical records, a driver's license or identification card, and any official documentation necessary to prove that the individual was previously in foster care.</p> <p>(8) State agencies may access federal funding for extending eligibility for foster care services to youth aged 18, 19, and 20.</p>
42 U.S.C. § 675a	<p>(a) Outlines permanency hearing requirements for cases involving a youth's permanency plan of "another planned permanent living arrangement." The court must ask the youth about their desired permanency outcome and make a judicial determination regarding the appropriateness of the permanency plan. The agency must document its intensive, ongoing, unsuccessful efforts for family placement; adherence by the foster family or group care setting to the reasonable and prudent parent standard; and opportunities for the youth to engage in developmentally appropriate activities.</p> <p>(b) The child welfare agency must provide all youth in foster care who are 14 or older with a "rights document" that describes that youth's rights regarding education, health, visitation, and court participation, personal documents, and the right to stay safe and avoid exploitation. The youth must sign and acknowledge that he or she has been provided with that document and has receive an explanation of the rights in an age-appropriate way.</p>
42 U.S.C. §677	<p>Describes the state option to offer support to youth through the John H. Chafee Foster Care Program for Successful Transition to Adulthood, including terms of eligibility and types of support included. Educational and training vouchers are described in subsection (i).</p>

Additional Resources for the Legal Community on the Family First Prevention Services Act

Text of the [Family First Prevention Services Act](#), enacted as part of the Bipartisan Budget Act of 2018.

ABA Resources

- [Tool for Engaging the Legal Community in Implementing Family First](#), 2019.
- [Legal Professional Roles: Implementing the Family First Prevention Services Act](#), 2019.
- An [explanation](#) of the distinction between the [Family First Act and IV-E Funding for Legal Representation](#), 2020.
- [New Opportunities for Kinship Families: Action Steps to Implement the Family First Prevention Services Act in Your Community](#), 2019.
- Pokempner, Jennifer. [Leveraging the FFPSA for Older Youth: Improving Transitions](#), 2019 (one of three related articles).

National and State Resources

- [Family First Resource Database](#), a searchable tool of resources from various partner organizations.
- Children's Defense Fund and Partners. [Implementing the Family First Prevention Services Act Q&A Tool](#), 2020.
- Children's Defense Fund. [Family First Prevention Services Act-Detailed Summary](#), 2018.
- National Council of Juvenile and Family Court Judges. [The Role of the Court in Implementing the Family First Prevention Services Act of 2018](#), 2019.

Federal Resources

- Children's Bureau, U.S. Department of Health and Human Services. ACYF-CB-IM-18-05: [Strengthening Families through Primary Prevention of Child Maltreatment and Unnecessary Parent-Child Separation](#), November 16, 2018. (Explains the role of courts and the legal community in primary prevention efforts.)
- Prevention Programs: <https://www.acf.hhs.gov/cb/title-iv-e-prevention-program>
- Broader Family First Issues: <https://www.acf.hhs.gov/cb/laws-policies/whats-new>
- Federal HHS/ACYF/CB Resources: www.familyfirstact.org

Endnotes

1. To learn more about where the Family First Act provides some flexibility and exceptions to new requirements for tribes, *see* Children’s Defense Fund and Partners. [Implementing the Family First Prevention Services Act Q&A Tool](#), Sec. 8, 2020.

2. *See* Family First Prevention Services Act, Pub. L. No. 115-123 (passed as part of the Bipartisan Budget Act of 2018) (2018) (Family First Act), Sec. 50711, codified at 42 U.S.C. § 671(e). Prevention services will be reimbursable at the Federal Medical Assistance Rate beginning in FY2027.

3. H.R. Rep. No. 114-628, at 27 (2016).

4. Family First Act, Sec. 50711(b), codified at 42 U.S.C. § 675(13).

5. *See* U.S. Department of Health and Human Services, Administration on Children, Youth and Families. [ACYF-CB-PI-18-09, Sec. \(B\)\(2\)](#) (“We are not further defining the phrase ‘candidate for foster care’ as it appears in section 475(13) of the Act or further defining the term ‘imminent risk’ of entering foster care for the Title IV-E prevention program.”); *See also* Chapin Hall & Casey Family Programs. [Family First Prevention Services Act: Candidacy by Jurisdiction](#), 2020; Center for the Study of Social Policy. [Responsibly Defining Candidacy within Context of FFP-SA: Five Principles to Consider](#), 2019. *See also* Appendix B for state interpretations of “candidate for foster care.”

6. The [Title IV-E Prevention Services Clearinghouse](#) rates prevention programs in categories outlined by the Family First Act, Sec. 50711(a)(2): “promising,” “supported,” or “well-supported,” according to the number and quality of studies that demonstrate efficacy.

7. *See* U.S. Department of Health and Human Services, Administration on Children, Youth and Families. [ACYF-CB-PI-19-06: Transitional Payments for the Title IV-E Prevention and Family Services and Programs](#) (regarding transitional payments for the Title IV-E Prevention and Family Services and Programs).

8. *See* 42 U.S.C. § 629a(a)(1)(B).

9. *See* 45 C.F.R. § 205.10 (describing the administrative hearings before an impartial hearing officer, including the opportunity for individuals to be represented by legal counsel or another authorized representative); 45 C.F.R. § 1355.30(k) (providing that the hearing procedures described in 45 CFR § 205.10 shall apply to all Title IV-B and Title IV-E programs). *See also* Administration for Children and Families, Children’s Bureau. *Child Welfare Policy Manual: 8.4G(1): TITLE IV-E, General Title IV-E Requirements, Fair Hearings* (noting that the fair hearings available for appeals described in 45 C.F.R. § 205.10 may relate to prevention services).

10. ABA Center on Children and the Law & National Council of Juvenile and Family Court Judges. *Judge’s Action Alert: Supporting Early Legal Advocacy before Court Involvement in Child Welfare Cases*, November 2020.

11. For more information on federal funding for legal representation, *see* resources by the [Family Justice Initiative](#) and [National Association of Counsel for Children](#).

12. *See, e.g.*, 42 C.F.R. Part 2.

13. *See, e.g.*, Rivaux, Stefanie et al. “The Intersection of Race, Poverty, and Risk: Understanding the Decision to Provide Services to Clients and to Remove Children.” *Child Welfare* 87, 2008, 151–168 (noting that in a study of child welfare caseworker decision making, when compared to Anglo Americans, African Americans were 77.0% more likely to be removed rather than offered in-home services); Kozhimannil, Katy Backes. “Racial and Ethnic Disparities in Postpartum Depression Care Among Low-Income Women.” *Psychiatry Services* 62(6), June 2011, 619-625 (reporting data that white women seek postpartum mental health care more than twice as often as black women and nearly twice as often as Latina mothers); Feldman, Nina & Aneri Pattani. “[Black Mothers Get Less Treatment for Their Postpartum Depression](#).” National Public Radio Morning Edition, November 29, 2019 (explaining that mistrust of public systems is often a factor leading to discrepancies in the provision of postpartum depression support).

14. *See* Family First Act Sec. 50712, codified at 42 U.S.C. § 672(j).

15. Siegel, Robert & Joshua Sharfstein. “[For Newborns Exposed to Opioids, Health Issues May be the Least of Their Problems](#).” National Public Radio, June 30, 2017 (explaining that a baby removed from his mother based on prenatal drug exposure tends to fare worse, not better); Abrahams, Ron & Nancy Rosenbloom. “[Effective Strategies for Courtroom Advocacy on Drug Use and Parenting](#).” *Child Law Practice Today*, October 2019 (describes the benefits of a “harm reduction approach” as an alternative to maternal child separation).

16. *See* Wall-Wieler, Elizabeth et al. “[Mortality Among Mothers Whose Children Were Taken Into Care by Child Protection Services: A Discordant Sibling Analysis](#).” *American Journal of Epidemiology* 187(6), June 2018, 1182–1188 (research found that “mothers whose children are taken into care have greater rates of mortality, specifically avoidable mortality”); Wall-Wieler Elizabeth et al. “Maternal Health and Social Outcomes after Having a Child Taken into Care: Population-based Longitudinal Cohort Study Using Linkable Administrative Data.” *Journal of Epidemiology Community Health* 71(12), 2017, 1145–1151 (study found that health and social situation of mothers involved with child protection services deteriorates after their child is taken into care).

17. *See* U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. [The AFCARS Report](#), August 22, 2019, 2.

18. *See id.*

19. Family First Act Sec. 5071(a)(2), codified at 42 U.S.C. § 672(j)(1).

20. 42 USC 672(a)(2)(A).

21. 42 U.S.C. § 675(5).
22. See Volunteers of America and Annie E Casey Foundation. [Family-Based Residential Treatment Directory of Residential Substance Use Disorder Treatment Programs for Parents with Children](#), 2019.
23. See 42 U.S.C. § 675 (explaining the case plan must ensure the “child receives safe and proper care and that services are provided” to parents and the child to “facilitate return of the child to his own safe home or the permanent placement of the child”).
24. See, e.g., Maze, Candice. [Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation](#). Washington, DC: ABA Center on Children and the Law, 2010.
25. 42 U.S.C. § 675(5)(E) (exceptions to this timeline exist by statute for cases involving placement with a relative, compelling reasons why TPR is not in the child’s best interests, and evidence that the agency has failed to provide reasonable efforts to reunify the family).
26. See 42 U.S.C. § 675(5)(E).
27. Volunteers of America and Annie E Casey Foundation, 2019.
28. See Family First Act, Sec. 50741, codified at 42 U.S.C. § 672.
29. See Generations United. [Children Thrive in Grandfamilies](#), undated.
30. The federal preference for a child’s placement in the least-restrictive, most family-like setting dates back to the Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, see 42 U.S.C. § 675(5).
31. See Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351; Child Welfare Information Gateway. [Placement of Children with Relatives](#). Washington, DC: U.S. Department of Health and Human Services; Casey Family Programs, ABA Center on Children and the Law, and Generations United. [Foster Care Licensing Summary and Analysis](#) (web page):.
32. “[T]he term ‘foster family home’ means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing....” 42 U.S.C. § 672(c)(1) (language prior to codification of the relevant section of the Family First Prevention Services Act of 2018).
33. Family First Act, Sec. 50741(b).
34. See Preventing Sex Trafficking and Strengthening Families Act of 2014, Pub. L. No. 113-183, Sec. 111.
35. See Administration for Children and Families, Department of Health and Human Services. [ACYF-CB-IM-19-01: National Model Foster Family Home Licensing Standards](#), February 4, 2019.
36. See National Association for Regulatory Administration. [Model Foster Family Home Licensing Standards](#), 2008.
37. See Family First Act, Sec. 50731.
38. See, e.g., ABA Center on Children and the Law, Casey Family Programs, Children’s Defense Fund, and Generations United. [Leveraging the Family First Prevention Services Act to Improve Use of the Title IV-E GAP](#), 2019.
39. See 42 U.S.C. § 671(a)(31).
40. See Family First Act, Sec. 50741, codified at 42 U.S.C. § 672(k); see also Sec. 50745(a)(requiring criminal records checks and checks of child abuse and neglect registries for adults working in congregate care settings).
41. 42 U.S.C. § 675(5).
42. Strengthening Families and Preventing Sex Trafficking Act of 2014, Pub. L. 113-183, Sec. 111(a)(1).
43. See Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, Sec. 204, codified at 42 U.S.C. § 675(1); Every Student Succeeds Act, Sec. 1005, codified at 20 U.S.C. § 6311(g)(1)(E).
44. See Family First Sec. 50741(a), codified at 42 U.S.C. § 672(k)(2)(B).
45. See National Foster Care Youth & Alumni Policy Council. “[A Historic Opportunity to Reform the Child Welfare System: Youth & Alumni Priorities on Special Populations](#),” September 2020, 6-7.
46. See Pokempner, Jennifer. [Leveraging the FFPSA for Older Youth: Reduction of Group Care Provisions](#). Washington, DC: ABA Litigation Section Children’s Rights Committee, 2019.
47. See Family First Sec. 50741(a), codified at 42 U.S.C. § 672(k)(2)(C).
48. See 42 USC 672(c)(2).
49. See, e.g., National Network for Youth and Child Focus. [The Family First Prevention Services Act: Addressing Implications for Youth Homelessness](#), November 2019.
50. See Family First, Sec. 50741(a), codified at 42 U.S.C. § 672(k)(2)(D).
51. See, e.g., resources on child sex trafficking from the [National Council of Juvenile and Family Court Judges](#), and [Rights4Girls](#).
52. See Family First Act, Secs. 50741, 50742, 50745, 50746, codified at 42 U.S.C. §§ 672(k), 675a(c), 671(a)(20).
53. See Family First Act, Sec. 50742, codified at 42 U.S.C. § 675a(c)(1)(B).
54. See Family First Act, Sec. 50742, codified at 42 U.S.C. § 675a(c)(1)(B)(iii)(III).
55. Family First Act Sec. 50742, codified at 42 U.S.C. § 675a(c)(2).

56. Family First Act, Sec. 50742, codified at 42 U.S.C. § 675a(c) (4).
57. Family First Act, Sec. 50742, codified at 42 U.S.C. § 675a(c) (1)(B)(ii).
58. See National Foster Care Youth & Alumni Policy Council, “[A Historic Opportunity to Reform the Child Welfare System: Youth & Alumni Priorities on Quality Residential Services](#),” February 2020, 5.
59. The primary sources of child welfare funding are IV-E dollars (Title IV-E of the Social Security Act) which are open-ended and provide the majority of federal funding, and IV-B dollars (Title IV-B of the Social Security Act) which provide capped discretionary and formula grants to states. Title IV-B consists of several categories, including money allocated to all states through the Promoting Safe and Stable Families Program for child and family services, which include: family support, family preservation, family reunification, and adoption promotion and support. Each state must spend a portion of its IV-B resources on programs in each of these four categories. For comprehensive discussion of federal child welfare funding, see Emilie Stoltzfus, *Child Welfare Funding in FY2018*, Congressional Research Service, July 30, 2018.
60. Social Security Act Section 431 (a)(7), codified at 42 U.S.C. § 629a(a)(7).
61. Specifically, IV-B Reunification Services can include: (i) Individual, group, and family counseling. (ii) Inpatient, residential, or outpatient substance abuse treatment services. (iii) Mental health services. (iv) Assistance to address domestic violence. (v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries. (vi) Peer-to-peer mentoring and support groups for parents and primary caregivers. (vii) Services and activities designed to facilitate access to and visitation of children by parents and siblings. (viii) Transportation to or from any of the services and activities described in this subparagraph.
62. See Family First Act, Sec. 50753(a)-(d), codified at 42 U.S.C. § 677.
63. See Family First Act, Sec. 50753(e), codified at 42 U.S.C. § 675(5)(I).
64. See 42 U.S. Code § 677 (a)(1).
65. See Strengthening Families and Preventing Sex Trafficking Act of 2014, Pub. L. 113-183, Sec. 113.
66. See 42 U.S. Code § 677(i).
67. See Strengthening Families Act, Sec. 114.
68. See, e.g., ABA Youth Engagement Project. “[How Adolescent Brain Science Supports Youth Engagement in Court Hearings and Case Planning](#).” In *Adolescent Brain Research Toolkit*, 2019.
69. See Family First Act, Sec. 50752. This provision reauthorizes for five years Title IV-B Subparts 1 and 2, which include, but are not limited to CIP grants.
70. See 42 U.S.C. § 629h(b)(1).
71. Family First Act, Sec. 50741(c), codified at 42 U.S.C. § 629h(b)(1).
72. See Family First Act, Sec. 50723, codified at 42 U.S.C. § 629g(f).
73. See Family First Act, Sec. 50722.
74. See Family First Act, Sec. 50732.
75. See Family First Act, Sec. 50771.
76. See, e.g., Family First Act, Secs. 50711, 50722, 50743, 50753.
77. See Family First Act, Sec. 50751.
78. See Family First Act, Sec. 50751.
79. See Family First Act, Sec. 50761.
80. See Family First Act, Sec. 50781.
81. “Special needs” of a child for the purposes of adoption or guardianship assistance is defined at 42 U.S.C. § 673(c).
82. Sankaran, Vivek. “[Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster Care](#).” *Child Law Practice Today* 33, June 2014.



Seizing the Opportunity

Ten Ways to Advance Equity and Promote Well-Being through the Family First Prevention Services Act (FFPSA)

The [Family First Prevention Services Act \(FFPSA\)](#)¹ marks a substantial movement toward child welfare reform by finally bringing child welfare financing into alignment with what research tells us is best for children and families—keeping children in their homes whenever safe and possible—and when children have to be placed in foster care—ensuring they are in the most family-like, least restrictive setting that will meet their needs. As is evidenced by the data, systems have long struggled to serve all children and families well. Children and families of color and children and youth who identify as lesbian, gay, bisexual, transgender, or questioning (LGBTQ) experience both disproportionate involvement with child welfare, and once involved, disparate outcomes including placement instability and longer stays in foster care.

A significant element driving challenges within child welfare practice has been a result of the misalignment between federal financing and what research tells us about what children, youth, and families need to thrive. Now, through FFPSA, there is a significant opportunity for child welfare systems to reimagine their work and implement a new vision in support of equity and in service of children and families. Core strategies for implementation should focus on maximizing the potential impact of FFPSA for children and families of color, LGBTQ youth, and those families that often face the most significant barriers to timely permanency and optimal well-being. Successful implementation of these strategies will in turn support state efforts in achieving an equitable child welfare system with better outcomes for all children and families involved with child welfare.

The following strategies highlight 10 opportunities for states to leverage FFPSA to both advance equity and promote better outcomes for children and families. While this list is not exhaustive and there are many other strategies for advancing equity, the 10 opportunities below represent concrete strategies states can pursue to achieve an equitable child welfare system.

1. Engage the broader community including other public agencies, private partners, and community stakeholders in developing a comprehensive Prevention Plan.

Through FFPSA, states have the opportunity to invest new resources in prevention services. In developing their Prevention Plan child welfare systems should include partner agencies and community stakeholders to gain multiple perspectives about the needs of children and families and information on the perspective services that would prevent removals and placement into foster care. A shared investment in developing the plan will also lead to shared accountability—ensuring that quality services are effectively implemented in the community and are able to meet the needs of children and families.

2. Develop a continuum of prevention services that meet the needs of children and families who are not currently being well served.

Child welfare systems must analyze their data and engage community members to understand the needs of children and families who

are candidates for foster care and to develop a broad range of prevention services that can meet the unique needs of these families. Specifically, states must analyze their data—including disaggregating their data by race and ethnicity—to assess which groups of families are not being served well. Current research shows that families of color are less likely to receive family preservation services and LGBTQ youth are more likely to be removed from their homes due to conflicts with their caregivers. Given these trends, states must assess gaps in their current service continuum and implement prevention services to meet the need. Additionally, states should consider promising and innovative approaches as a part of a broad range of prevention services to ensure solutions have a strong fit with the experiences of children and families. This should include services that are specifically targeted to serving pregnant and parenting youth and post-reunification, guardianship, and adoption services to support and prevent families from coming back to the attention of child welfare.

3. **Identify local interventions that work to achieve positive outcomes for children and families and invest in growing the evidence about effectiveness.** Many states and communities have community-based prevention services that they know work through outcome data, including qualitative measures. However, these interventions may not currently be deemed “evidence-based” if no formal evaluation has been conducted. States should work to identify these interventions and invest in growing the evidence so that in the future, children and families can benefit from these programs at a larger scale and states can receive title IV-E reimbursement.
4. **Implement foster parent recruitment and retention strategies particularly for youth who are over-represented in congregate care.** As states work to ensure appropriate placements for children and youth in family-based settings, states will have to increase their foster parent recruitment and retention strategies. Specifically, states should implement targeted strategies for foster parents who are able to provide safe, stable, and affirming homes to children and youth who are disproportionately placed in congregate care settings including LGBTQ youth, teenagers, youth with behavioral health needs, and those who are expectant² and parenting. Given the unique needs of these youth, states will need to implement targeted recruitment and retention strategies and explore opportunities to better support foster parents in carrying for these children and youth.
5. **Develop guidance and implement policy and practice to reduce unintended consequences including the placement of youth in more restrictive settings than necessary.** States must implement policies and procedures to ensure an accurate assessment of youth needs and to reduce inappropriate placements in congregate care settings, including those that are excluded from the Qualified Residential Treatment Program requirements. Research has highlighted that girls of color are more likely to be identified and deemed to be at-risk of experiencing commercial and sexual exploitation. States must ensure appropriate assessments of all youth in care to ensure safety while preventing bias from influencing placement decisions.
6. **Provide a continuum of supports and services for pregnant and parenting youth in foster care that are informed by research on optimal development.** To best support pregnant and parenting youth in foster care and their children, states must ensure there are supports and services that incorporate the research on optimal development and promote a young person’s health and development both as an adolescent and parent. Additionally, states should implement protections to ensure that while these services are offered and made available to youth, if a youth determines that they do not want a service—and there are no safety concerns about their child—this decision is not used in a punitive matter against them.
7. **Utilize maintenance of effort dollars (MOE) to support innovation.** MOE dollars provide a unique opportunity for states to invest in innovation to better serve children and families and promote keeping families together whenever safe and possible. These dollars can be used in a variety of ways including to build the evidence for new, innovative prevention programs, fund interventions that are not yet evidence-based, or as concrete supports to promote family stability.
8. **Implement services that are responsive to families who have experienced domestic violence.** Many families involved with child welfare may also have experienced domestic violence. Child welfare systems should integrate a framework that recognizes the co-occurrence of domestic violence and mental health and/or substance use and ensure prevention services are able to support families at the intersection of these co-occurring issues. By taking this approach, prevention services will be better able to serve families, promote safety, and address underlying needs.
9. **Identify strategies through title IV-B that maximize the health, well-being, and permanency of young children.** Young children are more likely to come to the attention of child welfare services and represent the largest population of children in foster care. These early years are also critical years in a child’s development. States should implement targeted strategies to support the health, well-being, and permanency of these children as an effective strategy for both promoting future healthy development and well-being and also preventing the removal of children whenever safe and possible.
10. **Promote effective engagement of kinship throughout a child and family’s involvement with child welfare.** Children and youth do best when they are with family and able to stay connected to their home, community, and school. States have the opportunity through FFP-SA to promote kinship engagement through multiple strategies including: implementing kinship navigator programs; integrating case practice expectations and strategies to promote engagement with family; using performance-based contracting to promote engagement of families and kinship for children and youth placed in QRTPs; and implementing model foster parent licensing standards that waive non-safety elements in order to license kinship relatives as caregivers.

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¹<https://cssp.org/wp-content/uploads/2018/10/Family-First-Prevention-Services-Act-of-2018.pdf>

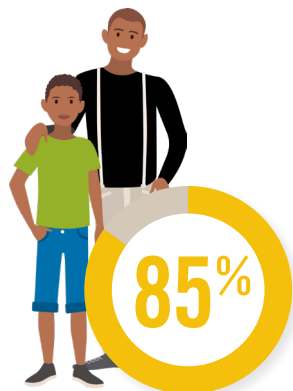
² We use “expectant” here to be inclusive of both young mothers and fathers who are expecting a child. Below we use “pregnant” as it refers to technical language in the bill.



CHILD WELFARE STIMULUS FUNDS: Who's Eligible in Your State?

A recently passed COVID-19 stimulus package includes \$400 million to help states support young people 14 through 26* in and transitioning from foster care — nearly 900,000 young people nationwide. These data charts are designed to help states determine how to prioritize this spending.

WHY THIS MATTERS



NO LONGER IN CARE





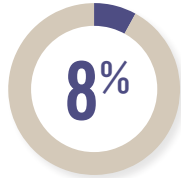
- With so many eligible youth no longer in care, states must ramp up efforts to reach and help as many as possible.
- \$400 million is more than 2.5 times the federal funding states usually receive for transition/independent living services.
- Eligibility is expanded during pandemic so youth can remain in or return to foster care beyond age 21. Resources that usually end at 21 or 23 (depending on state) are extended through 26.
- For a more equitable distribution, states might consider direct payments to young people who are transitioning from foster care or who recently exited.
- This stimulus requires and funds a national extension of foster care beyond age 21 until Sept. 30, 2021. Evidence shows this may especially help young people of color, who tend to fare better in extended care with work and educational attainment and are less likely to experience homelessness or young parenthood.



	14–17 years old		18–23 years old		24–26 years old		No longer in care	TOTAL
STATE	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	PERCENT	NUMBER
US	157,122	18	382,174	43	341,671	39	85	880,967
AK	741	29	1,132	44	720	38	85	2,593
AL	2,339	22	4,620	43	3,808	36	85	10,767
AR	1,679	19	3,896	44	3,191	36	91	8,766
AZ	5,593	21	13,547	51	7,488	28	91	26,628
CA	16,455	15	48,729	44	46,812	42	85	111,996
CO	2,739	14	8,502	44	8,098	42	92	19,339
CT	1,296	12	3,847	37	5,258	51	56	10,401
DC	276	13	839	41	954	46	88	2,069
DE	316	16	787	40	853	44	83	1,956
FL	6,844	20	15,393	44	12,708	36	91	34,945
GA	4,839	22	9,829	44	7,447	34	90	22,115
HI	653	19	1,354	40	1,379	41	90	3,386
IA	2,341	14	7,339	44	7,021	42	87	16,701
ID	726	21	1,487	43	1,244	36	89	3,457
IL	3,748	19	7,558	39	7,921	41	59	19,227
IN	5,575	23	10,439	43	8,163	34	82	24,177
KS	3,177	22	6,352	44	4,801	34	88	14,330
KY	4,594	21	9,691	45	7,313	34	89	21,598
LA	1,861	19	4,456	45	3,481	36	91	9,798
MA	4,656	18	11,724	45	9,923	38	93	26,303
MD	1,606	13	4,690	39	5,612	47	81	11,908
ME	403	21	777	40	785	40	88	1,965
MI	3,605	13	11,364	42	11,945	44	86	26,914
MN	4,249	18	10,355	44	9,109	38	93	23,713
MO	4,721	24	8,978	46	5,870	30	87	19,569
MS	1,566	21	3,643	48	2,417	32	89	7,626
MT	1,067	32	1,377	41	934	28	87	3,378
NC	3,524	22	7,327	44	5,722	35	76	16,573
ND	629	17	1,715	47	1,344	36	92	3,688
NE	1,385	12	4,326	39	5,406	49	92	11,117
NH	646	20	1,698	53	841	27	80	3,185
NJ	1,702	14	5,377	43	5,464	44	93	12,543
NM	884	22	1,704	43	1,381	35	91	3,969
NV	1,443	20	3,309	46	2,491	34	91	7,243
NY	6,879	14	20,738	43	20,590	43	86	48,207
OH	7,085	20	16,365	46	11,959	34	91	35,409
OK	1,968	19	4,666	44	3,878	37	92	10,512
OR	2,292	20	4,997	44	3,979	35	81	11,268
PA	7,170	12	20,548	35	31,833	54	72	59,551
RI	856	15	2,372	42	2,485	44	90	5,713
SC	2,355	23	4,309	42	3,515	35	91	10,179
SD	541	22	998	41	890	37	91	2,429
TN	5,218	18	13,227	44	11,337	38	77	29,782
TX	9,319	25	17,387	46	10,745	29	87	37,451
UT	1,219	15	3,811	48	2,881	36	87	7,911
VT	557	19	1,291	44	1,109	38	86	2,957
VA	2,323	18	5,918	45	4,995	38	87	13,236
WA	2,933	19	6,504	43	5,819	38	86	15,256
WI	3,219	19	7,212	43	6,199	37	91	16,630
WV	3,295	21	7,321	47	5,040	32	87	15,656
WY	762	18	1,933	45	1,649	38	92	4,344

Note: Counts represent the number of young people ages 14 through 26 as of September 30, 2019, who spent at least one day in foster care after their 14th birthday. Adapted from Child Trends's analysis of the Adoption and Foster Care Analysis and Reporting System (AFCARS) Foster Care File, 2006–2019.

* The age range "14–26" means young people ages 14 through 26

	American Indian/ Alaskan Native		Black		Hispanic		White		Other	
STATE	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
US										
	14,630		243,887		174,067		380,968		66,185	
AK	1,227	47	106	4	130	5	727	28	400	15
AL	18	<1	4,227	39	403	4	5,703	53	416	4
AR	20	<1	1,874	21	543	6	5,523	63	806	9
AZ	942	4	3,275	12	10,339	39	9,758	37	2,314	9
CA	743	<1	24,886	22	55,756	50	22,955	21	7,320	7
CO	124	<1	2,528	13	7,162	37	8,606	45	919	5
CT	12	<1	2,934	28	3,453	33	3,397	33	605	6
DC	▲	▲	1,701	84	243	12	12	1	69	3
DE	▲	▲	1,089	56	166	8	638	33	62	3
FL	67	<1	12,689	36	5,219	15	15,627	45	1,335	4
GA	14	<1	10,898	49	1,483	7	8,923	40	797	4
HI	790	23	72	2	130	4	506	15	2,652	79
IA	238	1	2,445	15	1,496	9	11,008	66	1,449	9
ID	153	4	68	2	474	14	2,575	74	187	5
IL	18	<1	10,483	55	1,363	7	6,780	35	566	3
IN	19	<1	5,908	24	1,735	7	15,026	65	1,482	6
KS	153	1	2,202	15	1,766	12	9,559	67	650	4
KY	13	<1	3,061	14	794	4	16,393	76	1,321	6
LA	30	<1	5,345	55	245	3	3,920	40	258	3
MA	36	<1	4,358	17	7,905	30	11,453	44	2,500	10
MD	13	<1	7,923	67	592	5	2,870	24	493	4
ME	21	1	66	3	128	7	1,491	76	257	13
MI	246	1	12,025	45	1,718	6	10,984	41	1,924	7
MN	2418	10	4,980	21	2,349	10	10,860	46	3,093	13
MO	64	<1	4,402	22	816	4	13,722	70	565	3
MS	10	<1	3,501	46	173	2	3,681	49	248	3
MT	853	25	60	2	213	6	1,967	59	261	8
NC	302	2	6,026	37	1,337	8	8,091	49	816	5
ND	886	24	194	5	179	5	2,111	57	316	9
NE	642	6	1,854	17	1,643	15	6,298	57	663	6
NH	▲	▲	156	5	305	10	2,431	76	285	9
NJ	18	<1	5,684	45	2,297	18	3,456	28	1,087	9
NM	304	8	156	4	2,167	55	1,150	29	171	4
NV	73	1	1,867	26	1,672	23	2,892	40	739	10
NY	178	<1	18,195	38	8,841	18	11,610	24	9,351	19
OH	18	<1	13,357	38	1,400	4	17,982	51	2,429	7
OK	707	7	1,373	13	1,573	15	4,254	41	2,605	25
OR	580	5	550	5	1,594	14	6,645	59	1,866	17
PA	96	<1	26,674	45	7,142	12	23,131	39	2,508	4
RI	52	<1	964	17	1,644	29	2,583	45	464	8
SC	32	<1	4,343	43	499	5	4,777	47	527	5
SD	1,140	47	115	5	179	7	800	33	191	8
TN	51	<1	8,470	29	1,556	5	18,044	61	1,574	5
TX	50	<1	8,314	22	15,113	40	12,286	33	1,681	4
UT	265	3	404	5	1,886	24	4,976	63	379	5
VT	▲	▲	89	3	29	1	2,772	95	42	1
VA	▲	▲	4,518	34	1,209	9	6,584	50	916	7
WA	877	6	1,423	9	2,713	18	8,081	53	2,117	14
WI	796	5	4,973	30	1,441	9	8,413	51	955	6
WV	▲	▲	906	6	213	1	13,475	86	1,031	7
WY	68	2	141	3	696	16	3,280	76	159	4

▲ Too few to report (<10) ■ This data is Native Hawaiian/Pacific Islander NOT American Indian/Alaskan Native

Note. Age data in AFCARS are required and therefore complete in this table. Race/ethnicity information is not always provided.