

Background

The Family First Prevention Services Act is a bipartisan bill that reforms many of the federal child welfare financing mechanisms to help better support families. The bill aims to prevent their children from entering foster care by allowing federal reimbursement for services to families and children. H.R. 5456/S. 3065 also seeks to improve the well-being of children already in foster by incentivizing states to reduce placement of children in group care. H.R. 5456 by Representative Buchanan (R-FL) was introduced in the House of Representatives on June 10, 2016 and its companion was introduced in the Senate on June 16, 2016 by Senators Hatch (R-UT) and Wyden (D-OR).

Currently, federal funding for child welfare programs primarily comes from Title IV-E and Title IV-B of the Social Security Act. Title IV-E, the **largest federal funding stream for child welfare**, is used to match state dollars for foster care maintenance payments for daily care and supervision, adoption assistance, training of staff and foster care providers, administrative costs to manage the program, recruitment of foster parents, and costs related to the design, implementation, and operation of a state-wide data collection system.

Under current law, Title IV-E dollars can only be used for children who are eligible under the outdated Aid to Families with Dependent Children (AFDC) program. Title IV-B dollars can be used more flexibly for formula grant funds to state and tribes of child welfare-related services to support children and their families.

Bill Summary

Title I – Investing in Prevention and Family Services

Who is eligible for services?

1. A child who is a candidate for foster care¹
2. A child in foster care who is pregnant or parenting
3. Parents or kin caregivers
 - When directly related to the safety, permanence or well-being of the child
 - Includes children in tribes

Under section 112, Foster Care Maintenance Payments can be received for children placed with parents in a licensed residential family-based treatment facility for substance abuse

- Must be eligible for foster care maintenance payments
- Treatment facility must provide parenting skills, education, and family and individual counseling

¹ “A child who is a candidate for foster care means a child who is identified in a prevention plan under §471(e)(4)(a) as being at imminent risk of entering foster care (without regard to whether the child would be eligible for foster care maintenance payments or is or would be eligible for adoption or kinship guardianship assistance payments but can remain safely in the child’s home or in a kinship placement as long as services or programs that are necessary to prevent the entry for the child into foster care are provided.” Also includes those at risk for adoption or disruption. The Family First Prevention Services Act of 2016, H.R.5456, § 111 114th Cong. (2016).

What services are available for federal reimbursement?

- Mental health services
- Substance abuse treatment
- In-home parent skill-based programs

Requirements of Services:

- Must be trauma-informed and should be promising, supported, well-supported
- Guidance will be issued by HHS for further clarification
- Reimbursement is contingent on the state plan including a well-designed and rigorous evaluation strategy for that practice, there is a waiver if HHS decides there is compelling evidence of the effectiveness of a practice

Length of Time:

- 12 months per episode
 - This means that there can be multiple 1-year time limited services. Once 12 months is up, funding can continue with state dollars, or other funding streams other than IV- E (i.e. Medicaid)

State Requirements:

- Must maintain a written prevention plan for the child and also submit in state plan what services and programs they are planning to provide under this section (includes information about how they will monitor, assess, train workforce etc.)
- Must report outcomes for those receiving services and costs associated

Federal Payments (timeline):

- Beginning Oct 2019- October 2025 50% of amount spent for prevention services, based on 100% of kids
- October 2025- FMAP equivalent
- 50% for administrative, training costs as well
- 50% for evidence based kinship navigator payments- no cash assistance
- Income eligibility for IV E is dropped only for prevention
- Waivers are not affected—optional for states

Technical Assistance:

- HHS will establish a clearing house for evidence-based practices
- HHS will provide technical assistance for data collection

Enhanced Support Under Title IV-B:

1. Family Reunification Services
 - Eliminates time limit for family reunification services while the child is in foster care and permits 15 months of services and activated when a child returns home from foster care
2. Electronic Interstate Case Processing System
 - Requires states to implement electronic interstate case processing system for children in foster care, guardianship or adoption, by 2026
 - Provides grants for states to develop the electronic system- \$5 million per year from 2017-2021
3. Regional Partnership Grants
 - This section (sec. 123) gives the reauthorization/ continuation of successful programs that work to alleviate the substance abuse problem and yields outcomes that support parents
 - These grants are competitive, both non-profit and state programs are able to receive them

Miscellaneous

1. Licensing Standards for Placement in a Relative Foster Family Home
 - a. HHS to establish model licensing standards for foster home
 - b. States will have to report whether their licensing standards are in accord with the model and if not why there is a deviation.
 - c. States also have to address whether they have waived standards for relative foster family homes, how they trained caseworkers on this, and what has been done to improve caseworker training.
 - d. This goes into effect October 1, 2017.
2. Preventing Child Fatalities
 - a. States to report on steps to compile complete and accurate information on maltreatment deaths
 - b. Description of steps state is taking to develop and implement a comprehensive statewide plan to prevent fatalities

Title II – Ensuring the Necessity of a Placement that is not in a Foster Family Home

After two weeks, federal reimbursement will only be made for group homes if the child is in:

1. A qualified residential treatment program
2. A setting specializing in providing prenatal, post-partum, or parenting supports for youth,
3. Supervised independent living for youth over 18

Assessment:

- Assessment must be conducted within 30 days after placement in QRTP to receive federal payment by a qualified individual (a trained professional or licensed clinician, cannot an employee of the state)
- Assessment will look at the strengths and needs of the child using an age appropriate evidence-based validated functional assessment tool approved by HHS
 - Determine which setting is best for the child, ideally the least-restrictive environment
 - Develop list of short- and long-term child specific mental and behavioral health goals
 - Family and permanency team must be assembled to work in conjunction with qualified individual
 - State must document in child's case plan what the team decides, who was there, etc.
- A shortage of foster family homes is not an acceptable reason for determining that the needs of the child cannot be met in a foster family home
- Within 60 days of placement in a QRTP, a family or juvenile court will consider the assessment, determine the most appropriate placement of the child and approve or disapprove the placement-state has to demonstrate why child is in QRTP if for an extended period of time (no private right of action)
- If the assessment determined that the placement of a child in a QRTP is not appropriate, a court disapproves the placement or the child is returning to a family home setting, federal funds can be used while the child remains in QRTP during the transition period
- No federal funds can be used after 30 days of such a determination (that child shouldn't be in a QRTP)
- There are provisions to make sure inappropriate diagnoses are not being made to keep child in a QRTP

Components of a Qualified Residential Treatment Program:

1. Should have a trauma-informed treatment model designed to address the needs of children with emotional or behavioral disorders and be able to implement the treatment identified by the assessment
2. Has registered or licensed nursing staff and clinical staff who can provide care within scope of practice as defined by the state, are on site during business hours and available 24/7
3. Facilitates participation of family members in the child's treatment program (when in child's best interest)
4. Facilitates outreach to family members of the child
5. Documents how family members are integrated into the treatment process for the child
6. Provides discharge planning and family based after care support for 6 months after discharge
7. Licensed and accredited (there are specific orgs who can accredit)

Foster Family Home (definition)

- Licensed or approved by state where child in foster care resides
- Adheres to the reasonable and prudent parent standard
- Provides 24-hour care for the child
- Provides the care for not more than 6 children in foster care (there is flexibility here: parenting youth, siblings, meaningful relationship with a family, special family training)

Child Care Institution (definition)

- Private child care institution with 25 or less children
- Licensed by the states or approved by agency responsible for licensing
- Includes setting where youth over 18 is living in a supervised independent living setting
 - *Includes a provision to ensure that states will not enact policies that would result in more kids in juvenile justice- GAO study to evaluate the impact on state juvenile justice systems based on the limitation imposed on foster care maintenance payments on behalf of kids not in a foster family home.*
 - *For states with waivers in effect at the date of enactment, the law will not apply until the waiver expires.*

Title III – Continuing Support for Child and Family Services

- Extension of Title IV-B program until 2021
- Use of funds for to support and retain foster families
- Chafee-allows states to provide services for youth who aged out before 21 until 23, expands use of education and training vouchers until youth are 26

Title IV – Continuing Incentives to States to Promote Adoption and Legal Guardianship

- Delays Fostering Connections implementation of federal assistance for adoption of special needs children
- GAO study on state reinvestment of savings resulting from increase in adoption assistance

Analysis

The Family First Prevention Services Act is a step forward in reforming federal child welfare financing. If enacted, states will be able to receive reimbursements for services provided to families before a child enters foster care. The bill also ensures that all children could be eligible for services if they are a candidate for care, eliminating the AFDC eligibility criteria for the services specified in the bill.

This bill is the **result of over a year of bipartisan proposals and negotiations** in both the Senate Finance Committee and the House Ways and Means Committee. The prevention services component stems from earlier legislation introduced by Senator Wyden (D-OR) and Congressman Doggett's (D-TX) – The Family Stability and Kinship Care Act (S.1964/H.R. 3781). That legislation included a broader array of prevention services beyond mental health, substance abuse treatment and in-home parenting skills services and allocated more dollars under Title IV-B for prevention and post-permanency support.

Senators Wyden and Hatch also released a proposal in late 2015 that included provisions for states to reduce placements in group homes and outlined the components of the Qualified Residential Treatment Program that are in the current Family First Prevention Services Act. The proposal also included kinship assistance grants and emergency cash assistance under Title IV-B for families, which is not in the introduced legislation.

H.R. 5456/S.3065 also **addresses a number of other child welfare issues** that have been discussed and debated by the 114th Congress. It recognizes that the nation is in the midst of an opioid and substance abuse crisis and that the population of children entering foster care due to parental substance abuse is growing. The bill extends the regional partnership grants to allow states to improve the well-being, permanency and safety of children who are in, or at risk, of an out-of-home placement due to parental substance abuse. It also allows Title IV-E dollars to be used for children who are placed in a family-based residential facility with a parent who is receiving treatment for substance abuse.

The Family First legislation also incorporates the Modernizing the Interstate Placement of Children legislation, which passed in the House in May of 2016. This requires states to implement an **electronic interstate case processing system** for children in foster care, guardianship or adoption, by 2026 to improve efficiency in placing children across state borders. The bill also strengthens supports for older youth by allowing states that have extended foster care to 21 to allow supports and services through Chafee funding until the youth is 23 and extends education and training vouchers for youth until the age of 26. Youth transitioning out of care are at risk of homelessness, incarceration, and have poor rates of college graduation and these provisions address some of those issues.

The Family First Prevention Services Act passed by voice vote in the House of Representatives on June 21, 2016 and is currently pending in the Senate.