

Family First Prevention Services Act

The Family First and Prevention Services Act (FFPSA) was included as a provision in the [Bipartisan Budget Package/Continuing Resolution \(Public Law 115-123\)](#), which was approved by Congress and signed by the President on February 9, 2018. FFPSA included two major provisions to reform the child welfare system and a number of other important provisions, such as, extending full funding for the three CIP grants through FY 2021. Unless otherwise specified, the implementation date for the reforms is October 1, 2019. Courts will play a critical role in the effective implementation of the reforms and should be aware of the details of the FFPSA. The specifics of FFPSA are outlined below.

First, FFPSA provides states with the option to use Title IV-E funding for time-limited prevention services for children at risk of placement in foster care, for the children’s parents and kinship caregivers, and pregnant and parenting youth. The vast majority of children entering foster care do so as a result of neglect. Previously, Title IV-E funding could only be used for services for children and their families if the child was in the foster care system. Beginning on October 1, 2019, prevention services can be provided for up to 12 months for a child and the child’s family to address the issue that is putting the child at risk of entering foster care, if the child welfare agency determines that the child can remain safely at home. Prevention services eligible for federal reimbursement are mental health services, substance abuse prevention services, and in-home parenting skills. To be eligible for federal reimbursement, the services must be evidence-based and trauma-informed. *(See Part I below for more details)*

The second major provision of FFPSA is to focus on placing the vast majority of children in the foster care system with relatives or in foster family homes. Children who need special services and treatment can be placed in Qualified Residential Treatment Programs (QRTPs) for the time necessary to provide the needed services and treatment for the child. FFPSA specifies a number of requirements that these QRTP facilities must meet to qualify for federal reimbursement. Effective October 1, 2019, Title IV-E funding will only be available for children placed in a QRTP if an assessment of the child’s needs has been conducted and a court has approved the QRTP placement. States are given the option to delay implementation of this provision until October 1, 2021. If a state chooses to delay implementation of this provision, the state must also delay implementation of the prevention services provision for the same time period. *(See Part IV below for more details)*

*National Center for State Courts
Government Relations Office
111 2nd Street, NE, Washington, DC 20002
(202) 684-2622*

Court-Related Provisions in the FFPSA

Court Improvement Program (CIP) Grants - Importantly, all three Court Improvement Program (CIP) grants (basic, data, and training) were extended for FY 2017 through FY 2021. Passage of the FFPSA provides stability and full funding for all three grant programs through FY 2021 (*See Section 50761 below*)

Improving Foster Care Interstate Placements - States are required to use an electronic interstate case-processing system for exchanging data and documents to help expedite the interstate placement of children in foster care, adoption or guardianship no later than October 1, 2027. Federal funding is available to help states implement electronic interstate case-processing systems. (*See Section 50722 below*)

Regional Grant Partnership (RGP) Grant - The Regional Grant Partnership (RGP) grant eligibility requirements were amended to specify that certain partners must be part of the collaborative agreement. The mandatory partners include the state child welfare agency, the state agency responsible for administering the substance abuse prevention and treatment block grant, and the court(s) that works with the families. (*See Section 50723 below*)

Development of Statewide a Plan to Prevent Child Abuse and Neglect Fatalities - Effective October 1, 2018, states are required to document in their Title IV-B state plan the steps the state is taking to track and prevent child maltreatment fatalities. The documentation is to address how the state agency has engaged public and private agency partners, including those in public health, law enforcement, and the courts in the development of the state's plan. (*See Section 50732*)

Judicial Training on New QRTP Requirements - Judges are critical to the effective implementation of the provision to focus on placement of foster children in family homes and to reduce the use of congregate care/group homes. The eligibility criteria for receiving CIP grant funds was amended to include a requirement to provide training for judges, attorneys, and other legal personnel on child welfare cases in federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not foster family homes. (*See Section 50741 below*)

Court Review of Congregate Care/Group Home Placements - Within 60 days of the placement of a foster child in a QRTP, a court with competent jurisdiction or an administrative body appointed or approved by the court must independently review the QRTP placement and approve or disapprove of the placement. For children that remain in a QRTP, the state child welfare agency must submit evidence at every status review and permanency hearing that justifies the child's continued placement in that placement. (*See Section 50742 below*)

Highlights of Other Key Provisions

Other provisions of FFPSA include the following.

- Effective October 1, 2018, Title IV-E reimbursement will be available for a child in foster care who is placed with his/her parent in a licensed residential family-based substance abuse treatment facility for up to 12 months. *(See Section 50712 below)*
- Beginning October 1, 2018, Title IV-E reimbursement will be available for evidence-based kinship navigator programs. *(See Section 50713 below)*
- To improve licensing standards for relative foster family homes, the U.S. Department of Health and Human Services (HHS) is required to publish model foster parent licensing standards. *(See Section 50731 below)*
- States are required to develop a statewide plan to prevent child abuse and neglect fatalities. *(See Section 50732 below)*
- Amendments were made to the Chafee Foster Care Independence Program to support youth who age out of foster care by encouraging transition services and expanding supports. *(See Section 50753 below)*

Summary of the Family First Prevention Services Act (Subtitle A of the Bipartisan Budget Package/Continuing Resolution)

Part 1 – Prevention Activities Under Title IV-E

Section 50711. Foster Care Prevention Services and Programs

Beginning October 1, 2019, states have the option to use Title IV-E funds for prevention services for eligible children at risk of foster care placement and for their families.

Persons Eligible for Prevention and Family Services and Programs

- Children who are “candidates” for foster care;
 - A candidate is a child who has been identified by the child welfare agency in a prevention plan as at imminent risk of entering foster care, but who can remain safely at home or in a kinship placement if provided services that would prevent entry into foster care.
 - This includes children whose adoptions or guardianship arrangements are at risk of disruption or dissolution, which would result in the child entering foster care;
- Children in foster care who are pregnant or parenting; and
- Parents or kin caregivers of candidates for foster care for services needed to prevent the child’s entry into foster care or directly relate to the child’s safety, permanence or well-being.

Duration of Prevention and Family Services and Programs

- Title IV-E funds can be used to provide services for up to 12 months beginning on the date the child is identified in a prevention plan as a candidate for foster care or a pregnant and parenting foster youth in need of services.
- Children and families can receive prevention services more than once if they are identified again at a later time as a candidate for foster care.

No Income Eligibility Requirement for Prevention and Family Services and Programs

- Eligible children, parents and kin caregivers are eligible for prevention services and programs regardless of whether they meet the Aid to Families with Dependent Children (AFDC) income-eligibility requirements required for Title IV-E reimbursement.

Types of Prevention and Family Services and Programs

- The services and programs eligible for Title IV-E reimbursement are:
 - Mental health and substance abuse prevention and treatment services provided by a qualified clinician; and
 - In-home parent skill-based programs, which include parenting skills training, parent education, and individual and family counseling.
- The services and programs must be trauma-informed.
- The services and programs must meet certain evidence-based requirements that follow promising, supported, or well-supported practices as defined in the FFPSA.
- The Secretary of the HHS is required to release guidance no later than October 1, 2018 on the practice criteria required for these prevention services or programs and to publish a “pre-approved” list of services and programs that meet these requirements.

Prevention Plan Requirements

- To receive the prevention services and programs, each candidate for foster care and pregnant or parenting youth must have a written prevention plan that specifies the needed services for or on behalf of the child. The services or programs identified in the prevention plan are required to be trauma-informed.
- The prevention plan for candidates for foster care must identify the strategy for the child to remain safely at home and out of foster care and list of services or programs needed for the child or the child’s parent or relative caregiver.
- The prevention plan for pregnant or parenting youth in foster care must include the youth’s case plan, a list of services or programs needed to ensure that the youth is prepared or able to be a parent, and a foster care prevention strategy for any child born to that youth.

State Plan Requirement

- A state that takes the option to use Title IV-E funds for prevention services must document in its state plan the details on how the state will monitor and oversee the safety of children who receive the prevention services or programs; the services and programs the state intends to provide and whether they are promising, supported, or well-supported; the outcomes the state intends to

achieve; how the state will evaluate the prevention services or programs offered; and how child welfare agency staff will be trained and supported to effectively implement the Title IV-E prevention services and programs.

- The state plan documentation on the prevention services and programs plan must be updated every five-years.

Federal Reimbursement for Prevention Services and Programs

- Federal financial participation (FFP) for the prevention services and programs will be phased in.
- Beginning October 1, 2019 and before October 1, 2026, the FFP available to states will be 50 percent for the prevention services and programs that are promising, supported, and well-supported practices.
- Beginning October 1, 2026, the FFP will be the state's Federal Medical Assistance Percentage (FMAP) rate for the prevention services and programs that are promising, supported, and well-supported practices.
- At least 50 percent of the expenditures reimbursed by federal funds must be for prevention services and programs that meet the requirements for well-supported practices.
- To receive FFP for a promising, supported, or well-supported practice, the state's state plan must include an evaluation strategy for the practice. HHS, however, can waive this requirement for any well-supported practice if the evidence of its effectiveness is compelling and the state meets continuous quality improvement requirements.
- States are permitted to use Title IV-E funds for training and the administrative costs associated with developing the necessary processes and procedures necessary to implement the prevention services and programs.

Maintenance of Effort for Foster Care Prevention Expenditures

- There is a maintenance of effort (MOE) requirement on "foster care prevention expenditures" to avoid states substituting their current state/local prevention dollars with the new Title IV-E funds.
- States cannot spend less than they did on state foster care prevention expenditures in FY 2014 (or FY 2015 or FY 2016 at the option of a state in which the child population in 2014 was less than 200,000).

Performance Measures and Data Collection on Prevention Services and Programs:

- States are required to collect and report the following data to HHS for each child or adult receiving prevention services and programs during the 12-month period beginning on the date when the child is identified in a prevention plan:
 - The specific services or programs provided and the total expenditure for each service or program.
 - The duration of the services or programs that were provided.
 - In the case of a candidate for foster care, the child's placement status at the beginning and end of the 12-month period, and whether the child entered foster care within two years of being determined a candidate.

- Beginning in 2021, and annually thereafter, HHS will establish national prevention services measures on the following indicators based on the data reported by the states:
 - Percentage of candidates for foster care who do not enter foster care during the 12-month period when the prevention services or programs are provided and through the end of the succeeding 12-month period.
 - Total amount of expenditures for the prevention services or programs per child.
- HHS is required to establish and annually update the prevention services measures based on the median state values for the 3 most recent years, and will consider differences in state prices using the Bureau of Economic Analysis of the U.S. Department of Commerce or other appropriate data.
- HHS will make each state's performance measures available to the public.

Eligibility for Indian Tribes and Tribal Organizations

- Tribes with an approved Title IV-E plan have the option to use Title IV-E funds for prevention services and programs. HHS will specify the requirements applicable to tribes, which will be consistent with state requirements, to the extent possible, but allow for cultural adaptation that best fits the context of the tribal community.
- For each tribe, organization, or consortium that takes the option for prevention services and programs, HHS will establish specific performance measures on the prevention services and programs, which will be consistent with the state performance measures, to the extent possible, but also take into consideration the factors unique to the tribe, organization or consortia.

Technical Assistance and Best Practices

- HHS is required to provide technical assistance and best practices to states, tribes, and tribal organizations on the prevention services and programs, including how to plan and implement an evaluation of promising, supported, or well-supported practices.
- HHS is required to evaluate research on promising, supported, and well-supported practices and establish a clearinghouse of these practices and their outcomes. HHS may also collect data and conduct evaluations on the prevention services and programs to assess how these services are reducing the likelihood of foster care placement, increasing the use of kinship care placements, or improving child well-being.
- HHS is required to submit periodic reports on the prevention services and programs to the Senate Finance Committee and the House Ways and Means Committee. These reports will also be made available to the public.
- These requirements on HHS were effective upon enactment of the law.

Other Provisions

- A child who is with a kin caregiver for more than six months and meets the Title IV-E eligibility requirements will continue to be eligible for Title IV-E foster care payments at the end of the 12 months of the prevention services and programs.
- Prevention services and programs provided a child or adult will not be counted against that individual as receipt of aid or assistance with regards to their eligibility for other programs.
- The U.S. territories are eligible for the Title IV-E prevention funding.

Section 30712. Foster Care Maintenance Payments for Children with Parents in a Licensed Residential Family-Based Treatment Facility for Substance Abuse

Effective October 1, 2018, states are eligible to receive Title IV-E reimbursement for up to 12 months for a child who is placed with a parent in a licensed residential family-based treatment facility for substance abuse, regardless of whether the child meets the AFDC income-eligibility requirement for Title IV-E.

The eligibility requirements for reimbursement include:

- The child’s case plan recommends placing the child with the parent at the treatment facility;
- The substance abuse treatment facility provides parenting skills training, parent education, and individual and family counseling; and
- The treatment and related services are trauma-informed.

Section 50713. Title IV-E Payments for Kinship Navigator Programs

Effective October 1, 2018, states can receive Title IV-E reimbursement for up to 50 percent of the state’s expenditures on kinship navigator programs that meet the evidence-based requirements of promising, supported, or well-supported practices.

Part II – Enhanced Support Under Title IV-B

Section 50721. Elimination of the Time Limit for Family Reunification Services While in Foster Care and Permitting Time-Limited Family Reunification Services When a Child Returns Home from Foster Care

Effective October 1, 2018, the current 15-month time-limit on the use of Title IV-B funds for family reunification services for children in foster care is eliminated.

The name of the program was changed from “Time-Limited Family Reunification Services” to “Family Reunification Services.”

Section 50722. Reducing Bureaucracy and Unnecessary Delays when Placing Children in Home Across State Lines

No later than October 1, 2027, states will be required to use an electronic interstate case-processing system for exchanging data and documents to help expedite the interstate placement of children in foster care, adoption or guardianship. The U.S. territories, Indian tribes, tribal organizations, and tribal consortiums are exempt from this requirement.

Funding (\$5 million for FY 2018 through FY 2022) is provided to help states implement electronic interstate case-processing systems.

States are required to submit an application to HHS that details how the grant will support the state in connecting with the electronic system. In awarding the grant funds, HHS shall give priority to states that have not yet connected with the electronic interstate case-processing system.

Not later than one year after the final grant year, HHS is required to report to Congress on how the system has changed the time it takes to complete interstates placements, how many cases were processed inside and outside the electronic system, state implementation progress, how the system affected other metrics related to child safety and well-being, and how the system affected administrative costs and caseworker time spent on interstate placements. The report will also be made available to the public.

HHS is required to work with the Secretariat for the Interstate Compact on the Placement of Children (the American Public Human Services Association) and the states to assess how this system can be used to better serve and protect children that come to the attention of the child welfare system by connecting the system to other data systems.

Section 50723. Enhancements to Grants to Improve Well-Being of Families Affected by Substance Abuse

The Regional Grant Partnership (RGP) was amended to specify the partners that must be a part of the collaborative agreement (interstate, state, or intrastate):

- The mandatory partners include the state child welfare agency, the state agency responsible for administering the substance abuse prevention and treatment block grant, and the courts that work with the families.
- The optional partners include Indian tribes, tribal consortium, nonprofit and for-profit child welfare service providers, community health and mental health providers, law enforcement, school personnel, tribal child welfare agencies and any others related to provision of services under the partnership.

Tribes receiving a RGP grant may include the state child welfare agency as a partner. If the tribe is working in a partnership grant that serves children in out-of-home care they may include a tribal court in lieu of other judicial partners.

FFPSA reauthorizes the RGP for an additional five years (FY 2017 – FY 2021). The amount per grant per fiscal year can be no less than \$250,000 and no more than \$1,000,000.

RPG grants will be awarded in two phases: (1) a planning grant (not to exceed two years and not to exceed \$250,000 or the total anticipated funding for the implementation phase) and (2) an implementation grant.

The RPG application requirements were amended to:

- Add goals to improve substance abuse treatment outcomes for parents, children, and families and focus on safe, permanent caregiving relationships for the children, to increase the reunification rate, and to facilitate the implementation and effectiveness of the new prevention services and programs in Title IV-E;
- Require a description of the sustainability plan for when the RPG grant ends; and

- Require information about how the proposed activities are consistent with current research or evaluations on effective practices.

The performance indicators were amended to reflect child safety and parent well-being, and to make the indicators consistent with the outcomes measures for the new Title IV-E prevention services and programs.

The reporting requirements were amended to include semi-annual reports to HHS on the services provided, progress made in achieving the goals, and the number of children and families receiving services.

The changes to the RPG are effective on October 1, 2018.

Part III – Miscellaneous

Section 50731. Improving Licensing Standards for Relative Foster Family Homes

HHS is required to identify model licensing standards for relative foster family homes not later than October 1, 2018. No later than April 1, 2019, states are required to submit the following to HHS:

- Whether their licensing standards are in accord with HHS’ model standards, and if not, why they deviate and a description of why that model standard is not appropriate for the state;
- Whether they waive certain licensing standards for relative foster family homes, and if so, a description of the standards they most commonly waive. If the state does not waive standards for relatives, they must describe the reason for not doing so;
- If the state waives licensing standards for relatives, a description of how caseworkers are trained on the waiver and whether the state has developed a process or tools to help caseworkers in waiving the non-safety standards to help place children with relatives more quickly; and
- A description of how the state is improving caseworker training or the process on licensing standards.

Section 50732. Development of Statewide a Plan to Prevent Child Abuse and Neglect Fatalities

Effective October 1, 2018, states are required to document in their state plan for the Title IV-B Child Welfare Services program the steps they are taking to track and prevent child maltreatment fatalities, including:

- How the state is compiling complete and accurate information on these fatalities, including information on deaths from relevant organizations (i.e. state vital statistics agency, child death review teams, law enforcement agencies, offices of medical examiners or coroners); and
- How the state is developing and implementing a comprehensive, statewide plan to prevent child maltreatment fatalities that engages public and private agency partners, including those in public health, law enforcement, and the courts.

Section 50733. Modernizing the Title and Purpose of Title IV-E

Effective upon enactment, the name of the Title IV-E program was changed from “Part E—Federal Payments for Foster Care and Adoption Assistance” to “Part E—Federal Payments for Foster Care Prevention, and Permanency.” The purpose of Title IV-E was also amended to reflect the new use of federal funds for prevention services and programs.

PART IV. ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME

Beginning October 1, 2019, states are to take steps to safely reduce the inappropriate use of congregate care/group homes for children in the foster care system. States have the option to delay the effective date for up to two years. Any state, however, that delays implementation of this provision must also postpone seeking Title IV-E funding for prevention services and programs for the same period of time.

Section 50741. Limitation of Federal Financial Participation for Placements that Are Not in Family Foster Homes

Restrictions on Federal Reimbursement for Placements Other than Foster Family Homes

- Beginning with the third week of a child entering foster care, states will only be eligible for Title IV-E foster care payments on behalf of a child in the following settings:
 - A foster family home of an individual or family that is licensed or approved by the state, and is capable of adhering to the reasonable and prudent parent standard, provides 24 hour care for children placed in the home, and provides care to six or fewer children in foster care (Exceptions to this limit can be made to accommodate parenting youth in foster care to remain with their child, keep siblings together, keep children with meaningful relationships with the family, and care for children with severe disabilities).
 - A child-care institution, defined as a licensed private or public child-care facility with no more than 25 children, that is one of the following settings:
 - A Qualified Residential Treatment Program (QRTP);
 - A setting specializing in providing prenatal, post-partum, or parenting supports for youth;
 - A supervised setting for youth ages 18 and older who are living independently; or
 - A setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims.
 - A licensed residential family-based substance abuse treatment facility for up to 12 months if a child is placed with a parent in that facility.
- Child-care institutions do not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children determined to be delinquent.
- This restriction on Title IV-E payments does not prohibit payments for administrative expenditures incurred on behalf of the child in a child care institution.

Qualified Residential Treatment Programs (QRTP)

- A QRTP, is defined as a program that:
 - Has a trauma-informed treatment model designed to address the needs, including the clinical needs, of children with serious emotional or behavioral disorders or disturbances, and can implement the necessary treatment identified in the child’s assessment;
 - Has registered or licensed nursing staff and other licensed clinical staff who can provide care, who are on-site consistent with the treatment model, and available 24 hours and 7 days a week. The QRTP does not need to have a direct employee/employer relationship with required nursing and behavioral staff;
 - Facilitates family participation in the child’s treatment program, if family participation is in child’s best interest;
 - Facilitates family outreach, documents how this outreach is made, and maintains contact information for any known biological family and fictive kin of the child;
 - Documents how the child’s family is integrated into the child’s treatment, including post-discharge, and how sibling connections are maintained;
 - Provides discharge planning and family-based aftercare supports for at least 6 months post-discharge; and
 - Is licensed and nationally accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation, or others approved by HHS.

Training for State Judges, Attorneys, and Other Legal Personnel in Child Welfare Cases

- The eligibility criteria for receiving CIP grant funds is amended to include a requirement to provide training for judges, attorneys, and other legal personnel in child welfare cases in federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not foster family home.

Assuring Changes in Federal Reimbursement Do Not Impact the Juvenile Justice System

- Effective on October 1, 2019, states are required to include a certification in their state plans providing assurance that the state will not enact or advance policies or practices that will result in a significant increase in number of youth in the juvenile justice system because of the new restrictions on federal reimbursement for children not placed in a foster family home.
- The GAO is directed to conduct a study evaluating the impact on the juvenile justice system because of the new restrictions on federal reimbursement for children not placed in a foster family home. Specifically, the GAO is to evaluate the extent to which children in foster care who are in the juvenile justice system and placed in a juvenile justice facility are there because of the lack of available congregate care placements. GAO must submit the report to Congress no later than December 1, 2025.

Section 50742. Assessment and Documentation of the Need for Placement in a Qualified Residential Treatment Program

Assessment to Determine Appropriateness of Placement in a QRTP:

- Within 30 days of a child being placed in a QRTP setting, a qualified individual must assess the child's strengths and needs using an age-appropriate, evidence-based, validated, functional assessment tool to determine if the child's needs can be met with family members or in a foster family home, or in one of the other approved settings (i.e. facilities for pregnant or parenting youth or independent living facilities) consistent with the short- and long-term goals of the child and the child's permanency plan. HHS is required to publish guidance on valid assessment tools. The qualified individual conducting the assessment must also document child-specific short- and long-term mental and behavioral health goals.
 - The assessment must be done by a "qualified individual", who must be a trained professional or licensed clinician who is not a state employee or affiliated with any placement setting in the state. This requirement, however, may be waived by HHS upon request of a state certifying that a trained professional or licensed clinician can maintain objectivity in the assessment process.
 - If the assessment is not completed in the first 30 days of the child's placement in a QRTP, the state will not be eligible to receive federal reimbursement for foster care maintenance payments for that child while they remain in that QRTP placement.
- The qualified individual must conduct the assessment in conjunction with the child's family and permanency team
- The child's family and permanency team shall include all appropriate biological family members, relatives and fictive kin and, as appropriate, professionals (teachers, medical and mental health providers, or clergy), who are a resource to the family. If the child is age 14 or older, the two members of the child's permanency planning team selected by the child shall also be included on the family and permanency team.
- The state shall document in the child's case plan its efforts to identify and include a family and permanency team for the child, contact information for the team (including other family and fictive kin who aren't in the team), evidence that meetings were held at a time convenient for the family and permanency team, evidence that the child's parent provided input if reunification is the permanency goal, evidence that the assessment was made in conjunction with the team, the placement preference of the team that acknowledges the importance of keeping siblings together, and if the team's placement preference is different than that of the qualified individual the reason why the recommendations are different.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a QRTP

- If it is determined by an assessment that a QRTP placement is not appropriate for a child, then the state has an additional 30 days from the time that determination is made to transition the child to a placement that can better address the child's needs. States will receive FFP during this 30-day period. If the child remains in the QRTP beyond those 30 days, the FFP will cease.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a Foster Family Home:

- If it is determined that a QRTP placement is appropriate for a child, the qualified individual must document in writing why the child's needs cannot be met by his/her family or in a foster family (a shortage of foster family homes is not an acceptable reason), why a QRTP will provide the most effective and appropriate level of care in the least restrictive environment, and how it is consistent with the short- and long-term goals of the child.
- Within 60 days of a placement in QRTP, a court with competent jurisdiction or an administrative body appointed or approved by the court must independently review the QRTP placement.
 - The court shall consider the assessment, determination, and documentation made by the qualified individual that conducted the assessment.
 - The court shall determine whether the needs of the child can be met in a foster family home, or if not, whether placement in a QRTP provides the child the most effective and appropriate level of care in the least restrictive environment and is consistent with the short- and long-term goals of the child.
 - The court shall approve or disapprove of the placement
- For a child who remains in a QRTP, the state agency must submit evidence at every status review and permanency hearing that:
 - Demonstrates that ongoing assessment of the strengths and needs of the child continue to support the determination that the child's needs cannot be met in a foster family home and that the QRTP provides the child the most effective and appropriate level of care in the least restrictive environment and is consistent with the short- and long-term goals of the child, as specified in the child's permanency plan;
 - Documents the specific treatment or service needs that will be met for the child in the QRTP placement and the length of time the child is expected to need the treatment or services; and
 - Documents the efforts made by the state agency to prepare the child to return home or be placed with a relative, legal guardian, or adoptive parent, or in a foster family home.
- For children in a QRTP for 12 consecutive or 18 nonconsecutive months (or for more than 6 consecutive months for children under age 13) the state agency is required to submit to HHS the most recent evidence and documentation supporting the QRTP placement with a signed approval by the head of the state agency.

Section 50743. Protocols to Prevent Inappropriate Diagnoses

Effective upon enactment, states must establish, as part of their health care services oversight and coordination plan, procedures and protocols to ensure children in foster care are not being inappropriately diagnosed with mental illnesses, disorders or disabilities that may result in the child not being placed with a foster family home.

HHS is required to evaluate these procedures and protocols and the extent to which states comply and enforce them, identify best practices, and submit a report on the evaluations to Congress no later than January 1, 2020.

Section 50744. Additional Data and Reports Regarding Children Placed in Settings that is Not a Foster Family Homes

States are required to collect data and report on the following data items for children in child-care institutions or other settings that are not foster family homes:

- The type of placement setting (i.e. shelter care, group home, residential treatment facility, hospital or institution, setting for pregnant or parenting youth, etc.)
- The number of children in the setting, and the age, race/ethnicity, and gender of each child in the setting.
- For each child, the length of stay in that setting, whether it was the child's first placement, and if not, the number of previous placements, and the child's special needs.
- The extent of specialized education, treatment, counseling, or other services provided in that setting.

States are also required to report on the number and ages of children in these placements that have a permanency goal of Another Planned Permanent Living Arrangement (APPLA).

These reporting requirements were effective as if enacted on January 1, 2018.

Section 50745. Criminal Records Checks and Checks of Child Abuse and Neglect Registries for Adults Working in Child-Care Institutions and Other Group Care Settings

Effective on October 1, 2018, states are required to have procedures in place for background checks on any adult working in group care settings where foster care children are placed.

Section 50746. Effective Dates; Application to Waivers

States that have an active Title IV-E Demonstration Waiver when the changes in Title IV-E related to congregate care/group homes go into effect will not be held to the changes if they are inconsistent with the terms of their waiver until the waiver expires.

PART V. CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES

Section 50761. Supporting and Retaining Foster Families for Children:

The definition of "Family Support Services" under Promoting Safe and Stable Families in Title IV-B, Subpart 2, is amended to include community-based services that are designed to support and retain foster families. The prior definition focused primarily on services for the child's family, and this change will allow for additional support for foster families.

Under Title IV-B, Subpart 2, competitive grants (\$8 million in FY 2018 through FY 2022) were created to assist states and tribes in the recruitment and retention of high-quality foster families to help place more

children in foster family homes. The grants will be focused on states and tribes that have the highest percentage of children in non-family settings.

Section 50752. Extending Child and Family Services Programs Under Title IV-B

The following programs were extended for five years (FY 2017 through FY 2021) the following programs:

- Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B, Subpart 1).
- Promoting Safe and Stable Families Program (Title IV-B, Subpart 2)
 - This program was extended at the prior mandatory level of \$345 million a year.
 - Discretionary funding under Promoting Safe and Stable Families was also extended for five years.
 - Additionally, funding reservations for supporting monthly caseworker visits, Regional Partnership Grants, and the three Court Improvement Program grants (basic, data, and training) were extended for five years.

Section 50753. Improvements to the John H. Chafee Foster Care Independence Program and Related Provisions

The financial, housing, counseling, employment, education, and other appropriate supports and services to former foster care youth under the John H. Chafee Foster Care Independence Program (Chafee) were extended to age 23. The supports and services under Chafee were previously only available to youth between ages 18 and 21.

The extension of Chafee services to age 23 only applies to states that have taken the option to extend foster care to youth to age 21 or states that HHS determines are using state or other funds to provide services and assistance to youth who have aged out that are comparable to those youth would receive if the state had taken the option to extend care.

If a state has unspent Chafee funds remaining (i.e. at the end of the two-year period that funds are available to them), HHS can make those available to redistribute to other states that apply for additional funds, if HHS determines that those states will use the funds for the purposes stated. The amount redistributed to the states will be based on the “state foster care ratio” (i.e. the number of children in foster care in one state compared to the overall number of children in foster care nationally). Tribes can also participate.

The eligibility for Education and Training Vouchers under Chafee was extended to age 26. Previously the funding was only available to youth up to age 23. The FFPSA also clarified that higher education vouchers are available to youth who are at least 14-years old. Youth cannot participate in the voucher program for more than 5 years (whether or not the years are consecutive).

The name of the program was changed from the “John H. Chafee Foster Care Independence Program” to the “John H. Chafee Foster Care Program for Successful Transition to Adulthood.” Also, the FFPSA makes several language changes throughout Chafee, including clarifying that these services can start for youth at age 14.

Not later than October 1, 2019, HHS is required to submit a report to the House Ways and Means Committee and Senate Finance Committee on the National Youth in Transition Database (NYTD) and other relevant databases that track outcomes of youth who aged out of foster care or who exited foster care to adoption or kinship guardianship. The report is to include:

- Comparisons of the reasons for entering foster care and the foster care experience for 17-year-olds (i.e. length of stay, number of placements, case goal, discharge reason) to children who left care before turning 17;
 - Characteristics of youth ages 19 and 21 who report poor outcomes to NYTD;
 - Benchmarks for determining poor outcomes for youth who remain in care or exit care, and plans the Executive branch will take to use those benchmarks in evaluating child welfare agency performance in providing services to youth transitioning from care;
 - Analysis of association between placement type, number of placements, time in care, and other factors related to outcomes at ages 19 and 21; and
- Analysis of outcomes for youth ages 19 and 21 who were formerly in care compared to 19 and 21-year-olds still in care.

PART VI. CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP

Section 50761. Reauthorizing the Adoption and Legal Guardianship Incentive Program

The Adoption and Legal Guardianship Incentive Payment program was reauthorized for an additional five years (FY 2017 through FY 2021). The incentive program allows states to receive incentive payments based on improvements the state has made in increasing exits from foster care to adoption or guardianship. This provision took effect as if enacted on October 1, 2017.

PART VII. TECHNICAL CORRECTIONS

Section 50771. Technical Corrections to Data Exchange Standards to Improve Program Coordination

HHS, in consultation with an interagency workgroup, is required to designate data exchange standards around the information shared between different state agencies, including federal reporting and data exchange requirements.

To the extent practicable, the data exchange standard requirements shall incorporate the following:

- A widely-accepted, non-proprietary, searchable, computer-readable format, such as Extensible Mark-up Language;
- Contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;
- Be consistent with and implement applicable accounting principles;
- Be implemented in a manner that is cost-effective and improve program efficiency and effectiveness; and
- Be capable of being continually upgraded; as necessary.

Two years after enactment HHS is required to issue a proposed rule that identifies federally required data exchanges; includes specification and timing of exchanges; addresses factors used to determine whether and when to standardize data exchanges; and specifies state implementation options and future milestones.

Section 50772. Technical Corrections to State Requirement to Address the Developmental Needs of Young Children

The state plan requirement under Title IV-B, Subpart 1 was amended to describe activities to reduce the length of time to permanency for all vulnerable children under the age of 5 and the activities the state undertakes to address the developmental needs of all vulnerable children under age 5 who receive services until Title IV-B or Title IV-E.

PART VIII. ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASES IN ADOPTION ASSISTANCE

Section 50781. Delay of Adoption Assistance Phase-In

Effective January 1, 2018, the increased federal reimbursement under Title IV-E Adoption Assistance for certain children adopted under age two was suspended for the period of January 1, 2018 to June 30, 2024. All children with special needs will be eligible for Title IV-E Adoption Assistance on July 1, 2024.

In the interim, children with special needs under 2 years of age will continue to be eligible for Title IV-E Adoption Assistance if they meet the existing Title IV-E eligibility requirements or are eligible for state-funded Adoption Assistance payments.

Section 50782. GAO Study on Savings Resulting from the Increase in Adoption Assistance

The Government Accountability Office (GAO) is required to review states' compliance with the requirements of the Adoption Assistance federal reimbursement phase-in, specifically the:

- Requirement that state savings generated from the phase-in are being used to provide services to adopted children and their families and.
- Requirement that the state will spend no less than 30 percent of the savings generated by the phase-in on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes, and that at least two-thirds of that 30 percent requirement be spent on post-adoption and post-guardianship services.

The GAO is required to submit the findings of this study in a report to the Senate Finance Committee, House Ways and Means Committee, and HHS.

If you have questions or need additional information, please contact kay Farley at kfarley@ncsc.org or (202) 684-2622.