

**BOARD OF JUVENILE COURT JUDGES**  
**Agenda**  
**Friday, October 12, 2018**  
**First Floor, Executive Dining Room**  
**Matheson Courthouse, Salt Lake City, Utah**

| <b>Time</b> | <b>Description</b>  | <b>Presenter</b>                 |
|-------------|---|----------------------------------|
| 9:00A.M.    | Welcome and Approval of the Minutes <i>[Tab 1-Action Item]</i>  | Judge Jim Michie,<br>Board Chair |
| 9:05A.M.    | Commission on Criminal and Juvenile Justice <i>[Information Item]</i><br><br><i>Ms. Cordova will share the work of CCJJ, her vision for CCJJ, and how the Board and CCJJ can continue to work together going forward.</i>   | Kim Cordova                      |
| 9:30A.M.    | Administrative Updates <i>[Information Item]</i>  | Dawn Marie Rubio                 |
| 9:40A.M.    | Family First Prevention Services Act <i>[Tab 2- Information Item]</i><br><br><i>Ms. Gregory will talk about the Family First Prevention Services Act, its intent, and the impact on the Utah Child Welfare System and the Utah Juvenile Court.</i>  | Katie Gregory                    |
| 10:00A.M.   | Annual Report to the Child Welfare Legislative Oversight Panel <i>[Tab 3- Information Item]</i><br><br><i>Ms. Gregory will review the FY 2018 Child Welfare Statutory Time Requirements Report submitted pursuant to Section 62A-4a-207. An electronic copy is also publicly available on the Courts' website at <a href="http://www.utcourts.gov/courts/juv/">www.utcourts.gov/courts/juv/</a> in the Child Welfare section.</i> | Katie Gregory                    |
| 10:15A.M.   | Annual Permanency Review Documentation <i>[Discussion Item]</i><br><br><i>Ms. Gregory will briefly discuss the most recent CFSR and the federal expectation that Utah demonstrate more clearly the requirement of annual permanency reviews. Ms. Gregory will seek feedback on the frequency with which annual reviews take place, as well as how best to document in CARE for data reporting purposes.</i>                       | Katie Gregory                    |

|                                  |  |                                      |                     |                                  |                     |                  |
|----------------------------------|--|--------------------------------------|---------------------|----------------------------------|---------------------|------------------|
| 10:45A.M.                        | Probation Policy Approval Process [ <b>Action Item</b> ]<br><br><i>Ms. Rubio will present the proposed structure for probation policy approval, effective 2019, and seek Board approval.</i>   | Dawn Marie Rubio                     |                     |                                  |                     |                  |
| 11:10A.M.                        | 2018-2019 Goals --Board of Juvenile Court Judges [ <b>Action Item</b> ]<br><br><i>Judge Michie and Judge Smith will lead a discussion of Board goals for the 2018-2019 Board year.</i>   | Judge Jim Michie<br>Judge Rick Smith |                     |                                  |                     |                  |
| 11:40A.M.                        | Old Business/New Business<br><br><ul style="list-style-type: none"> <li>• Hold for Transport – Judge Rob Neill [<b>Discussion Item</b>]</li> <li>• Judicial Council Updates – Judge Ryan Evershed and Judge Mark May [<b>Information Item</b>]</li> <li>• 2019 Board Meeting Schedule – Dawn Marie Rubio [<b>Tab 4-Action Item</b>]</li> </ul> | Group                                |                     |                                  |                     |                  |
| 12:00P.M.                        | Next Meeting Date, Adjourn and Lunch<br><br><table border="1" data-bbox="342 934 1192 1010"> <tr> <td><b>Friday, November 9, 2018</b></td> <td><b>SLC-Matheson</b></td> </tr> <tr> <td><b>Friday, December 14, 2018</b></td> <td><b>SLC-Matheson</b></td> </tr> </table>   | <b>Friday, November 9, 2018</b>      | <b>SLC-Matheson</b> | <b>Friday, December 14, 2018</b> | <b>SLC-Matheson</b> | Judge Jim Michie |
| <b>Friday, November 9, 2018</b>  | <b>SLC-Matheson</b>  |                                      |                     |                                  |                     |                  |
| <b>Friday, December 14, 2018</b> | <b>SLC-Matheson</b>  |                                      |                     |                                  |                     |                  |

# **TAB 1**

**BOARD OF JUVENILE COURT JUDGES  
MEETING MINUTES  
Wednesday, September 19, 2018  
9:00A.M. to 11:00A.M.  
10<sup>th</sup> Floor--Twin Peaks Room B  
Cliffs Lodge, Snowbird Resort**

The Board of Juvenile Court Judges met at the Snowbird Resort on Wednesday, September 19, 2018. The following Board members, Administrative Office staff and guests were present:

| <u>ATTENDEES</u>        | <u>STAFF</u>      | <u>GUESTS</u>                   |
|-------------------------|-------------------|---------------------------------|
| Judge Jim Michie, Chair | Dawn Marie Rubio  | Judge Ryan Evershed             |
| Judge Angela Fannesbeck | Richard Schwermer | Judge Mary Noonan <i>[ret.]</i> |
| Judge Michael Leavitt   | Tom Langhorne     |                                 |
| Judge Julie Lund        | Dennis Moxon      |                                 |
| Judge Robert Neill      | Katie Gregory     |                                 |
| Judge Douglas Nielsen   | Amber Stubbings   |                                 |
| Judge F. Richards Smith |                   |                                 |

**1. Welcome and Approval of the Minutes – Judge Jim Michie [Action Item]**

Judge Michie welcomed everyone to the meeting and asked for approval of the minutes. **Judge Smith made a motion to approve the August 10, 2018 minutes. Judge Fannesbeck seconded the motion, and it passed unanimously.**

**2. Administrative Updates – Richard Schwermer and Dawn Marie Rubio [Information Item]**

Judge Michie invited Mr. Richard Schwermer to provide an update on administrative matters. Mr. Schwermer stated the Legislature is reviewing judicial compensation this year. He indicated the Judicial Council will ask the Compensation Commission for a cost of living adjustment along with a small percentage increase. Mr. Schwermer reviewed specifics of the conversation with the Compensation Commission. He also reviewed Utah’s comparison to nationwide judicial salaries. Mr. Schwermer then provided updates on JPEC activity. As JPEC enters its “off year,” JPEC is reviewing priorities for litigant surveys. Mr. Schwermer then provided an update on court outreach including court participation at Salt Lake City FanX Comic Convention, where more than 110,000 people attended. Ms. Rubio stated the Utah Juvenile Court has been invited to participate in a French documentary surrounding the detention and secure care of youth as well as Utah’s efforts on juvenile justice reform. The documentarians requested judge participation and Ms. Rubio suggested Judge Michie as the chair of the Board, and Judge Kimberly Hornak as the most senior member of the Juvenile Court bench.

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**3. New Judge Orientation Curriculum Updates – Tom Langhorne [Information Item]**

Judge Michie invited Mr. Tom Langhorne to present on the updates to the New Judge Orientation curriculum. First, Mr. Langhorne referenced the Standing Education Committee and its directive to create more adept judicial curricula. Second, Mr. Langhorne provided a history of the New Judge Orientation and the shift to focusing on core competencies which led to a change to a five-day orientation class. After reviewing assessments from participants, it became increasingly clear the structure of the orientation classes need to be reorganized. He indicated a bifurcated two-week structure to address the more nuanced aspects of a role on the bench was the route the Education Working Group approved. The Education Department recently held a bifurcated class and participant survey scores increased significantly. Mr. Langhorne stated that twelve chapters were developed for New Judge Orientation, as well as a video series for senate confirmed and transitioning judges. Mr. Langhorne asked the Board for volunteers to address the online learning tools. Judge Leavitt suggested that the Juvenile Court Benchbook could have a greater role in the nuanced portions of the training, with online supplements.

**4. Probation Policies – Dennis Moxon and Dawn Marie Rubio [Information & Action Item]**

Mr. Moxon reviewed the request to delete Probation Policies 1.5, *Dress Code*, stating there will be no need for a second dress code policy with the statewide human resources policy developed and in place. **Judge Leavitt moved to delete Probation Policy 1.5, *Dress Code* and adopt the statewide human resources policy. Judge Lujan seconded the motion and it passed unanimously.** Mr. Moxon then reviewed Probation Policy 1.6, *Courtroom Etiquette*. Judge Smith indicated language dictating the use of “your honor” could be updated to include “judge,” “commissioner,” or “your honor.” Judge Leavitt opined there could be an addendum to include the probation officer goes with the standard courtroom procedure unless otherwise noted. **Judge Smith made a motion to approve Probation Policy 1.6, *Courtroom Etiquette*, with the amendment to include “or judge,” or “commissioner” in how probation officers address a judicial officer. Judge Leavitt seconded the motion and passed unanimously.** Next, Mr. Moxon reviewed the changes to Probation Policy 2.3, *Case and Referral Transfers*. He stated case and referral transfers now apply to all types of probation cases. The implementation of this policy also requires a deletion of Probation Policy 4.12, *Case Transfer-Supervision*. Discussion took place regarding logistics for detention hearings for “hold pending transfer.” The issue of scheduling transfers and the proper timing for filing petitions was discussed. The question was raised whether this is a policy or practice issue. If the initial detention hearing in the non-resident county could be handled by virtual appearance it may eliminate this issue. Judge Michie proposed deferring the “hold for transport” issue to the next meeting and reviewing with individual districts for best practices. Judge Smith stated the language on the form for information on case transfers should be altered to make the entry of information mandatory in CARE. **Judge Smith made a motion to change the language of the form in the addendum to mandate the case transfer information form shall be completed and e-filed by the sending probation officer, and approve the deletion of the existing Probation Policy 2.3, *Case Transfers - Intake and Probation Policy 4.12, Case Transfers – Supervision*, and replace them with the proposed Probation Policy 2.3, *Case and Referral Transfers* with the changes**

**to the note on the addendum. Judge Neill seconded the motion and it passed unanimously.** The Board will review these policies at the next meeting. Mr. Moxon then spoke to the changes to Probation Policy 2.4, *Nonjudicial Adjustment*. He indicated this policy is new language to help provide a plain language read of new statutory requirements. He provided a brief overview of how the practice has been developed to have a prosecutor address felonies for the nonjudicial process. Discussion took place over sections 3.1 and 3.2 of the policy. Mr. Moxon indicated that is to comply with those felonies specifically that do not qualify for a nonjudicial adjustment. **Judge Lund made a motion to approve Probation Policy 2.4, *Nonjudicial Adjustment*. Judge Fannesbeck seconded the motion and it passed unanimously.** Judge Michie provided an overview of the current process for approval of probation policies. Ms. Rubio gave a history of the process from the Chief Probation Officers Working Group to now. Ms. Rubio proposed expanding the Probation Policy Working Group to include more staff who have day-to-day involvement in probation work. Ms. Rubio wanted to gauge the opinions of whether opening a public comment period for rule and policy changes should be considered. This would go into effect for 2019. **Judge Lovvitt made a motion to direct Ms. Rubio to create a plan to expand the policy group and create a streamlined process with a target to begin in 2019. Judge Nielsen seconded and it passed unanimously.**

#### **5. Child Welfare Runaway Warrants – Katie Gregory [Information Item]**

Judge Michie asked Ms. Katie Gregory to provide an update on Child Welfare Runaway Warrants. Ms. Gregory indicated that the Department of Public Safety was able to move quickly to program the new form of warrant and she asked the Board to review the format before the system goes on line. The new warrant helps DCF workers comply with federal law and new provisions in 78A-6-106(6), which require DCF to notify law enforcement within 24 hours when a child in DCFS custody has run away, is missing, or has been abducted. The warrant directs law enforcement to place the warrant on the National Crime Information Center (NCIC) website. The worker will also recommend a location where the child should be taken. If the worker requests the child be taken to detention, the worker must state why detention is the least restrictive placement available to ensure the immediate safety of the child. The new warrant will be deployed after all users are trained.

#### **6. JJOC Services Working Group Update – Judge Mary Noonan [ret] and Dawn Marie Rubio [Information Item]**

Judge Michie invited Judge Mary Noonan to review the recent happenings of the Services Working Group of the Juvenile Justice Oversight Committee. Judge Noonan reviewed the implementation dates for services to be provided by DHS and how programming is coming along. She reviewed the services who have responded to the RFP to implement contractors for services for youth. She stated the geographic areas have not all been addressed but will eventually roll out. A map will come out to show service availability.

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**7. Old/New Business**

Judge Michie asked the Board to speak to new or old business at this time.

- Judge Michie asked the Board to consider the process for the Board agendas and whether the agendas should be forwarded to the Bench in advance of the meeting. **Judge Leavitt made a motion to distribute the Board agendas to the entire bench when distributed to the Board with some discretion. Judge Neill seconded the motion and it passed unanimously.**
- Judge Evershed provided an update on recent Judicial Council activity. He stated the Council heard a discussion of judicial workload studies over the years to help determine the new Judicial Council philosophy when requesting additional judicial officer FTEs from the legislature. He asked the Board if the Juvenile Courts should review the judicial weighted caseload in 2019. Ms. Rubio indicated that this is on her radar for a possible summer 2019 update. Judge Evershed indicated that the Judicial Council discussed drug court certification—four of the five drug courts were not recommended for approval were juvenile courts. They were not certified because of the inability to drug test on weekends and holidays. The Council determined it would expedite a rule change to set time frames to get into compliance, and to address the check list approval process. Judge Fannesbeck suggested requesting a check list specific to the juvenile courts. As a reminder, Judge Bazzelle is the Juvenile Court's representative on the Drug Court Certification Committee, and comments should be directed to her.
- Ms. Rubio reviewed the September 21, 2018 Bench meeting agenda. The Board approved the agenda by acclamation.
- Ms. Jacey Skinner reviewed the progress of the Juvenile Appointment Statute Working Group and a draft of legislation modifying Section 2-6-a-1-111. Ms. Skinner asked the Board for feedback prior to going back to the Working Group. Judge Leavitt indicated in paragraph four a standard for counsel has not been addressed and asked if that has been considered for ordering payment for parent counsel. Ms. Skinner indicated the judge will still have the ability to determine on a sliding scale and there is no specific direction for a reason. Judge Michie opined that a family should complete an affidavit of indigency to help determine whether the counsel should be county paid. Judge Fannesbeck inquired whether it would make more sense to have a statute for delinquency and a statute for child welfare instead of combining the two into one statute. The Board voiced support for creating two subsections within the same statute to address both points.

**9. Next Meeting Date, and Adjourn – Judge Jim Michie**

The next meeting of the Board of Juvenile Court Judges will be held at Matheson Courthouse on Friday, October 12, 2018. There being no further business, the meeting was adjourned.

# TAB 2

# Child Maltreatment Report 2015



# Family First Prevention Services Act

- P.L. 115-123 as part of the Bipartisan Budget Act on February 9, 2018
- Prevention as an entitlement (12 months of services per episode)
  - Children at imminent risk of entering foster care,
  - any parenting or pregnant youth in foster care, and
  - the parents — biological or adopted
  - kin caregivers of these children
- Evidence based services
- Residential Treatment Programs
- Kinship Navigators

# Family First Prevention Services Act

- Requires model licensing standards for relative foster family homes by October 1, 2018.
- Requires states to document steps taken to track and prevent child maltreatment deaths.
- Establishes new procedures and protocols to promote placement in foster family home settings beginning October 1, 2019
- Requires ICPC electronic records exchange by 2027 (\$5 million grant)
- Provides \$8 million in FY2018 for grants to states and tribes to support the recruitment and retention of high quality foster families.

# New Funding for Prevention Activities

- Allows states to receive open-ended entitlement (Title IV-E) funding for evidence-based prevention services

**Who:** 1) Children at imminent risk of placement in foster care and their parents or kinship caregivers, or 2) pregnant and parenting youth in foster care are eligible.

- No income test for eligibility
- Defines children who are “candidates for foster care” as those who can remain safely at home or in a kinship placement with receipt of services or programs

# New Funding for Prevention Activities

- Allows states to receive open-ended entitlement (Title IV-E) funding for evidence-based prevention services

***What:*** Allows the following evidence-base services to be reimbursed

- Mental health prevention and treatment services provided by a qualified clinician for not more than a 12 month period.
- Substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12 month period.
- In-home parent skill-based programs that include parenting skills training, parent education and individual and family counseling for not more than a 12 month period.

There is no limit on how many times a child and family can receive prevention services.

# New Funding for Prevention Activities

- Requires prevention services and programs to be ***promising, supported, or well-supported***, to qualify for reimbursement.
  - Requires the Secretary of HHS to issue guidance to states regarding the practices criteria required for services or programs under this section by Oct. 1, 2018. This guidance must include a pre-approved list of services and programs that satisfy the requirements
  - On June 22, the Children’s Bureau released a Federal Register Notice for Comments on initial criteria and programs for review in a Clearinghouse of evidence-based practices. Comments are due by July 22.
- Requires a state to submit a prevention and services program plan as part of the state’s Title IV-E plan
  - Requires the plan to include a number of components such as a description of how the state will administer the program, determine eligibility, train caseworkers and numerous other items.

# New Funding for Prevention Activities

- Reimbursement rates for prevention activities are:
  - Beginning October 1, 2019 through September 30, 2026, FFP is 50%
  - Beginning October 1, 2026, FFP is the state's FMAP rate.
  - At least 50% of the spending in every fiscal year must be for well-supported practices.
- States who opt to administer a prevention program also may claim Title IV-E reimbursement for administrative costs at 50% and training costs at 50%.
  - As with the prevention services, these costs are “delinked” from AFDC so not related to the income eligibility of the child or their family.

# New Funding for Prevention Activities

- ***When:*** Title IV-E reimbursement for eligible prevention services begins on October 1, 2019.
- ***Non-Supplantation:*** New federal funds for prevention services are intended to augment, not supplant, state funding for prevention services.
- ***Maintenance of Effort:*** MOE will be set at FY2014 spending for these same prevention services for candidates for foster care.

# Who is a “Candidate for Foster Care?”

- U.S. House Committee Report 114-628 includes the following to provide further information on Congressional intent

*....Under the eligibility criteria for new prevention services in title IV-E, the Committee recognized that children may come to the attention of the child welfare system and be considered at imminent risk of entry into foster care in a wide variety of scenarios. Accordingly, the Committee intentionally did not attempt to provide an exhaustive list of the living situations and caregiver dynamics that would trigger eligibility for the evidence-based mental health, substance abuse, and parent skill-building services made available under this bill.*

# Ensuring Appropriate Placements in Foster Care

The following placement options already are allowable under current Title IV-E and will continue under Family First:

- Facility for pregnant and parenting youth
- Supervised independent living for youth 18 years and older
- Specialized placements for youth who are victims of or at-risk of becoming victims of sex trafficking
- Foster Family Home (defined) – no more than 6 children in foster care, with some exceptions

# Ensuring Appropriate Placements in Foster Care

- Beginning October 1, 2018, Title IV-E foster care maintenance payments can be made on behalf of a child in foster care who is placed with their parent in a licensed residential family-based treatment facility for up to 12 months.
  - No income test applies for these services, unlike other Title IV-E foster care placements.
- Beginning as early as October 1, 2019, after 2 weeks in care, Title IV-E federal support will be available for Title IV-E eligible youth placed in a Qualified Residential Treatment Program (QRTP).

# What is a Qualified Residential Treatment Program (QRTP)?

- Has a trauma informed treatment model and a registered or licensed nursing and other licensed clinical staff onsite, consistent with the QRTP's treatment model.
- Facilitates outreach and engagement of the child's family in the child's treatment plan
- Provides discharge planning and family-based aftercare supports for at least 6 months
- Licensed and accredited

*There are no time limits on how long a child or youth can be placed in a QRTP as long as the placement continues to meet his/her needs as determined in assessment.*

# Ensuring Appropriate Placements in Foster Care

- States have the option to delay this provision for 2 years. However, delays in implementation of these provisions requires a delay in prevention provisions.
- To support State implementation of this provision, Family First provides \$8 million in FY2018 for grants to states and tribes to support the recruitment and retention of high quality foster families.

# Additional select items to promote safety, permanency, and well-being

- Provides Title IV-E support for evidence-based kinship navigator programs at 50%, beginning October 1, 2018.
- Requires HHS to identify model foster parent licensing standards; states have to then identify how they will implement.
- Requires the development of a statewide plan to prevent child abuse and neglect fatalities.

# Reauthorizes Adoption Assistance & Legal Guardianship Incentives

- Reauthorizes the Adoption and Legal Guardianship Incentive Programs through FY2022.
- Delays the phase in/expansion of the Adoption Assistance delink for children under age 2 (eligibility tied to 1996 AFDC income test) through June 30, 2024.

# Promoting Timely Permanency for Children Across State Lines

- Provides \$5 million in new grants to states to expand the development of the electronic system to expedite the interstate placement across state lines of children in foster care, guardianship or adoption.
- Requires that states use an electronic interstate case processing system by October 2027.

# Continues Child Welfare Funding

- Reauthorizes Title IV-B programs and services until FY2021.
  - Stephanie Tubbs Jones Child Welfare Services Program, including funding for monthly caseworker visits
  - Promoting Safe and Stable Families Program
  - Court Improvement Program
  - Regional Partnership Grants to Increase the Well-Being of, and to Improve the Permanency Outcomes for, Children Affected by Heroin, Opioids, or Other Substance Abuse
- Reauthorizes and makes revisions to the John H. Chafee Foster Care Independence Program until FY2021.

# Big Opportunities for Child Welfare

## Pre-2018 federal law

Most federal \$\$ for foster care

Services only for child

Income test to qualify

No dedicated kinship navigator

No \$\$ for child placed with parent in residential treatment

## Family First

New federal \$\$ for prevention

Prevention for parents, kin and child

NO income test, just what at risk family needs

NEW 50% reimbursement for funding kinship navigators

12-months of federal \$\$ for such placements

# Leadership for Implementing FFPSA

- FFPSA is the most important new tool in a generation to support safely reducing the need for foster care, improve outcomes and support communities of hope across America.
- FFPSA is an opportunity to:
  - Create system transformation and not just a chance to maximize revenue
  - Put into action the values regarding strengthening families, prevention, using foster care as the last intervention not the first, and ensuring that children are in the most family like settings.

## *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)*

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## **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](mailto:kfarley@ncsc.org) or (202) 684-2622.

**Family First Prevention Services Act**  
**Division E, Title VII, Public Law 115-123 (HR 1892)**

Enacted 2/9/2018

|  | Optional          | Mandatory                  |
|--|-------------------|----------------------------|
| Change Requiring Action  | Implement Date    | Level of Effort for Change |
| Part 1 - PREVENTION SERVICES - Prevention Services for children at serious risk of entry into foster care and parenting youth in foster care, parents, and kin of the children, for up to 12 months to prevent entry into foster care, limited to mental health, substance use disorder treatment, and in-home parent skill-based services that are evidence-based (well-supported, supported, or promising) | 10/1/2019*        | Significant                |
| Part 1 - SUBSTANCE ABUSE RESIDENTIAL TREATMENT - Room and board payments for foster children placed with a parent in substance abuse residential treatment   | 10/1/2018         | Moderate                   |
| Part 1 - KINSHIP NAVIGATOR - Allows IV-E funding for evidence-based kinship navigator program  | 10/1/2018         | Moderate                   |
| Part 2 - REUNIFICATION - Expansion of time period allowed for family reunification services under Promoting Safe and Stable Families (PSSF) grant  | 10/1/2018         | Low                        |
| Part 2 - ICPC - Required implementation of Interstate Compact for Placement of Children database for exchange of data and documents to expedite placement  | 10/1/2027         | Moderate                   |
| Part 2 - SUBSTANCE ABUSE COLLABORATION - Extension of authorization for regional partnership grants for collaboration between child welfare and substance abuse systems  | Competitive grant | Significant                |
| Part 3 - FOSTER PARENT LICENSING - Model foster parent licensing standards established at Federal level; States report compliance with standards, policies regarding waiving for kin, and caseworker training  | 4/1/2019          | Low                        |
| Part 3 - FATALITY REVIEW - Fatality review documentation process and steps to implement comprehensive state plan to prevent child maltreatment fatalities with partners  | 10/1/2018         | Moderate                   |
| Part 4 - CONGREGATE CARE - Limitations on Federal funding for placements that are not foster family homes, including requirements specific to qualified residential treatment programs, with time limits in residential care requiring Federal approval for extension  | 10/1/2019**       | Significant                |
| Part 4 - FOSTER FAMILY HOME DEFINITION - Modifies the definition of foster family home to allow up to six children to reside with a foster parent that is capable of adhering to the reasonable and prudent parent standard and provides 24-hour substitute care, with some provisions for exceptions  | 10/1/2019**       | Moderate                   |
| Part 4 - CHILD DIAGNOSIS - Implement protocol to ensure children in foster care are not inappropriately diagnosed for specific conditions and placed in non foster family settings due to diagnosis  | 1/1/2018          | Moderate                   |
| Part 4 - BACKGROUND SCREENING - Fingerprint based criminal records checks and child abuse registry checks in any state resided in within 5 years for adults working in child-care institutions   | 10/1/2018         | Moderate                   |
| Part 5 - FOSTER CARE SUPPORT - Expands definition of family support under PSSF grant to allow support for recruitment and retention of foster families   | 2/9/2018***       | Low                        |
| Part 6 - CHAFEE PROGRAM IMPROVEMENTS - Allows for extension of age for youth formerly in foster care if IV-E foster care age extended beyond age 18; extends Education and Training Voucher age to 26; and other program improvements  | 2/9/2018***       | Low                        |
| Part 7 - DATA EXCHANGE STANDARDS - Requires HHS to propose rules for data exchange standards within 24 months of enactment (by 2/9/2020)   | 2/9/2020          | Unknown                    |
| Part 7 - DEVELOPMENTAL NEEDS - Requires State to describe plan for how developmental needs of all vulnerable children under age 5 receiving IV-E or IV-B services are being addressed  | 2/9/2018***       | Low                        |
| Part 8 - IV-E ADOPTION ASSISTANCE - Reverts phase in of adoption eligibility changes back to age 2 for IV-E adoption assistance through 6/30/2024  | 1/1/2018          | Low                        |

\* Date of funding availability; if implementation of residential treatment changes delayed, this date delayed.

\*\* Implementation date may be extended up to two years

\*\*\* Effective date not specified; presumed date of enactment

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|--|---|---|
| <h1>ACF</h1> <p>Administration<br/>for Children<br/>and Families</p> | U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Administration on Children, Youth and Families  |   |
|  | <b>1. Log No:</b> ACYF-CB-IM-18-02  | <b>2. Issuance Date:</b> April 12, 2018 |
|  | <b>3. Originating Office:</b> Children's Bureau   |   |
|  | <b>4. Key Words:</b> Family First Prevention Services Act, Title IV-B, Title IV-E, Family Connection Grants, Adoption and Guardianship Incentives |   |

## INFORMATION MEMORANDUM

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E and/or Title IV-B of the Social Security Act

**SUBJECT:** NEW LEGISLATION – Public Law 115-123, the Family First Prevention Services Act within Division E, Title VII of the Bipartisan Budget Act of 2018.

**LEGAL AND RELATED REFERENCES:** Titles IV-B, IV-E, and section 1108 of the Social Security Act (the Act) as amended by Public Law 115-123, enacted February 9, 2018.

**PURPOSE:** To inform States and Tribes of the enactment of the *Family First Prevention Services Act* and provide basic information on the new law.

**BACKGROUND:** The President signed the Bipartisan Budget Act of 2018, [Public Law \(P.L.\) 115-123](#) into law on February 9, 2018. P.L. 115-123 includes the Family First Prevention Services Act (FFPSA) in Division E, Title VII. FFPSA amends the title IV-B, subparts 1 and 2 programs to reauthorize and make other revisions, the title IV-E foster care program to create new optional prevention funding under title IV-E, place title IV-E payment limits on child care institutions, reauthorize the Adoption Incentives Program, and other changes. The major changes are described below (please refer to attachment A for the complete amendments). **Disclaimer:** Information Memoranda (IMs) provide information or recommendations to States, Tribes, grantees, and others on a variety of child welfare issues. IMs do not establish requirements or supersede existing laws or official guidance.

**EFFECTIVE DATES:** Please note that P.L. 115-123 has various effective dates, some of which provide for a limited period of delay as follows:

- **Legislation Delay.** Delay permitted when the Secretary of the U.S. Department of Health and Human Services (HHS) determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the title IV-B or IV-E plan requirements imposed by the amendment. The “delayed effective date” is defined as the first day of the first calendar quarter after the close of the first regular session of the legislature body after enactment. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sections 50734(b)(1) and 50746(a)(2) of P.L. 115-123). The

amendments for which the Secretary will consider granting delayed effective dates under this provision are the amendments to sections 422(b)(15)(A)(vii), 422(b)(19), 471(a)(20)(D), and 471(a)(36) of the Act.

- Delay for up to two years for certain provisions that are effective 10/1/19: A title IV-E agency may request a delayed effective date not to exceed two years for the provisions limiting federal financial participation for placements that are not in foster family homes and those requiring assessment, documentation of the need for placement in a qualified residential treatment facility, and the certification for preventing increases to the juvenile justice population. If an agency so requests, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period of time (section 50746(b) of P.L. 115-123). If a State requests a delay, the Secretary will provide it up to the statutory limit. The provisions that may be delayed are the amendments made to sections 472(a)(2)(C), 472(c), 472(k), 474(a)(1), 471(a)(37), and 475A(c) of the Act by P.L. 115-123.
- Delay for Indian tribes, tribal organizations and consortiums: Delay permitted when HHS determines that an Indian tribe, tribal organization, or consortium with a title IV-E plan under section 479B of the Act, a cooperative agreement, or contract requires additional time as necessary to comply with any of the amendments to the Act made by Parts I, II, and III of P.L. 115-123 (section 50734(b)(2) of P.L. 115-123).
- Title IV-E Waivers: If the following provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires: sections 422(b)(15)(A)(vii) and 471(a)(20) of the Act (section 50746(d) of P.L. 115-123).

We reference the effective dates and delays permitted in the applicable sections of the Act below. CB will issue instructions on requesting a delayed effective date in the near future.

#### **INFORMATION:**

##### ***Title IV-E Prevention Services:***

- **Time-limited foster care prevention program and services**: Provides new optional title IV-E funding for time-limited (one year) prevention services for mental health/substance abuse and in-home parent skill-based programs for candidates for foster care (as defined in section 475(13) of the Act) without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship, pregnant/parenting foster youth, and the parents/kin caregivers of those children and youth (sections 471(e), 474(a)(6) and 475(13) of the Act). See attachment B for more information on this provision. Effective 10/1/18, but claiming may not begin until 10/1/19 per section 474(a)(6) of the Act.

##### ***Title IV-E Plan Requirements and Foster Care Requirements:***

- **Limitations on Title IV-E foster care payments for placements that are not foster family homes**: Title IV-E foster care payments are limited to two weeks for child care institutions per section 472(k) of the Act, unless it is a specified placement. Title IV-E agencies may continue to claim administrative costs for the duration of the period in the child care institution regardless of whether it meets the restrictions described in section 472(k) of the Act. Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming financial participation (FFP) for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period. See attachment C for more information on this provision.
- **Criminal Record and Registry Checks for Adults Working in Child-Care Institutions**: Amends the title IV-E plan to require procedures for fingerprint-based criminal records checks of

national crime information databases, and child abuse and neglect registry checks on any adult working in a child care institution. However, title IV-E agencies may use alternative procedures by reporting them to HHS describing why the required procedures for the checks are not appropriate for the agency (section 471(a)(20) of the Act). Effective 10/1/18, with legislation delay and title IV-E waiver delay per section 50746(a)(2) and (d) of P.L. 115-123.

- **Electronic case processing system:** Modifies the title IV-E plan requirement for the orderly and timely interstate placement of children to require that state title IV-E agencies have a centralized electronic interstate case processing system by 10/1/2027 (section 471(a)(25) of the Act). The amendments are effective 10/1/18. However, states do not have to implement until 10/1/2027. Tribal title IV-E agencies are exempt from this requirement (section 479B(c)(4) of the Act).
- **Model Licensing Standards for Foster Family Homes:**
  - HHS must identify national model licensing standards for foster family homes (section 50731 of P.L. 115-123).
  - Adds a title IV-E plan requirement (section 471(a)(36) of the Act) that title IV-E agencies must provide HHS, by 4/1/2019, specific and detailed information about foster family home licensing standards and whether they meet model licensing standards identified by HHS, waivers of non-safety licensing standards for relative caregivers and case worker training.
  - Effective upon enactment (2/9/18), with the legislation delay and delay for tribes permitted per section 50734(b) of P.L. 115-123.
- **Preventing increases to the juvenile justice population:** Adds a title IV-E plan requirement that title IV-E agencies must certify they will not enact policies that will significantly increase the state/tribe's juvenile justice population in response to the restrictions on title IV-E foster care payments for child care institutions in 472(k) of the Act (section 471(a)(37) of the Act). Effective 10/1/19 and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Limit on number of children in a foster family home:** Revises the definition of foster family home to limit a home to six children. Allows title IV-E agencies to make exceptions to the numeric limitation for parenting youth to remain with their child, to allow siblings to stay together, to allow a child with a meaningful relationship with a family to stay with that family, and to allow a family with special training or skills to care for a child with severe disabilities (section 472(c) of the Act). Effective 10/1/19, and agencies may request a delayed effective date not to exceed two years per section 50746(b) of P.L. 115-123. If so, this means that the effective date for claiming FFP for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period.
- **Proof of foster care:** Adds a requirement to provide official documentation to prove the child was in foster care to the list of documents a youth must be provided before aging out of foster care (section 475(5)(I) of the Act). Effective upon enactment (2/9/18).
- **Title IV-E foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse:** Allows title IV-E foster care payments for up to 12 months for an eligible child placed with a parent in a licensed residential family-based substance abuse treatment facility (section 472(j) of the Act).
  - To be eligible, the following conditions must be met:
    - **Eligible Child.** The child must either be eligible for title IV-E foster care maintenance payments, or meet all the eligibility requirements for title IV-E foster care maintenance payments except the AFDC eligibility requirements (note that a child who does not meet the AFDC requirements is not categorically eligible for Medicaid) (section 472(j)(2) of the Act).

- **Case Plan.** The recommendation for the placement is specified in the child's case plan before the placement.
  - **Mandatory Facility Services.** The treatment facility must provide parenting skills training, parent education, and individual and family counseling.
  - **Trauma Informed.** The substance abuse treatment, parenting skills training, parent education, and individual and family counseling must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing (section 472(a)(2)(C) and (j) of the Act).
- Effective 10/1/18.

***Title IV-E Adoption Assistance, Delay of Adoption Assistance Phase-In of Applicable Child***

**Requirements:** Effective 1/1/18, the full implementation of the title IV-E adoption assistance de-link provisions is delayed until 6/30/2024 (section 473(e)(1) of the Act). This means that title IV-E agencies may only apply the “applicable child” requirements to children who will reach at least age two by the end of the fiscal year their adoption assistance agreement was entered into from 1/1/18 until 6/30/2024. For this period, title IV-E agencies must determine a child’s eligibility for the title IV-E adoptions assistance program as a child who is “not an applicable child” if the child will not reach age two by the end of the fiscal year the adoption assistance agreement is entered into. If the title IV-E agency determined such a child eligible for title IV-E adoption assistance under the “applicable child” requirements after 1/1/18, the agency must assess whether the child would continue to be eligible as a child who is “not an applicable child” (section 50781(a) of P.L. 115-123). Due to this provision, we withdraw [ACYF-CB-IM-17-05](#), issued September 28, 2017.

***John H. Chafee Foster Care Program for Successful Transition to Adulthood (formerly the John H. Chafee Foster Care Independence Program):***

- Revises the John H. Chafee Foster Care Program for Successful Transition to Adulthood (the Chafee program) purposes to specify that it is available to youth who have experienced foster care at age 14 or older, among other changes to the purposes (section 477(a) of the Act).
- Makes education and training vouchers (ETV) available to eligible youth ages 14-26, but limits the youth’s participation in the ETV program at 5 years total (section 477(i)(3) of the Act).
- Permits states and tribes to provide the Chafee program up to age 23, if the agency extended the age for title IV-E foster care to 21 or provides comparable services to those youth using state or any other funds outside of title IV-E (section 477(b)(3) of the Act).
- Revises the existing requirement to provide the Chafee program to youth who have aged out of foster care by clarifying that youth may be eligible if they aged out at an age other than 18 as long as they have not attained age 21 (or age 23 if the state or tribe has extended foster care to youth up to age 21) (section 477(b)(3) of the Act).
- Revises the limitation on use of funds for room and board by clarifying that not more than 30 percent of the Chafee allotment may be expended for room or board for youths who have aged out of foster care and have not attained 21 years of age (or 23 years of age, in the case of a state or tribe that has extended foster care to age 21).
- Allows re-allocation of unexpended funds and provides a process for the Secretary to redistribute funds to states and tribes (section 477(d)(4) and (5) of the Act).

- In addition, as described below under “HHS Reports to Congress,” HHS is required to develop and submit to Congress a report on outcomes for youth in and aging out of foster care, based on data submitted to the National Youth in Transition Database (NYTD).
- Effective upon enactment (2/9/18).

***Title IV-E Funding for Evidence-Based Kinship Navigator Programs:*** Creates optional funding under title IV-E at 50-percent FFP for kinship navigator programs that meet the existing kinship navigator grants requirements in section 427(a)(1) of the Act and that meet the promising, supported, or well-supported practices requirements of the IV-E prevention services program, regardless of whether the children/families served are eligible for title IV-E (section 474(a)(7) of the Act). The requirements under section 427(a)(1) of the Act describe the purpose of the kinship navigator grants, which are 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. Effective 10/1/18.

***Adoption and Legal Guardianship Incentive Programs:*** Reauthorizes the Adoption and Legal Guardianship Incentive Programs and extends availability of appropriated funds through FY 2021 (sections 473A(b)(4) and (h)(2) of the Act). Effective as if enacted on 10/1/17.

***Annual Outcomes Report:*** Revises existing requirements for the annual outcomes report to Congress regarding the data to be reported on placements in non-foster family home settings (section 479A(a)(7)(A) of the Act). Effective as if enacted on 1/1/18 (section 50746 of P.L. 115-123).

***Title IV-B:***

- **Reauthorizes all title IV-B programs at current statutory funding levels through FY 2021 with changes** to plan requirements and service definitions, among other things as described.
- **Modifies title IV-B, subpart 1 plan for protocols to prevent inappropriate diagnoses:** Requires states and tribes to include in their title IV-B Health Care Oversight and Coordination plan procedures to ensure that children in foster care are not diagnosed inappropriately with mental illness and other disorders leading to inappropriate non-foster family home placements (section 422(b)(15)(vii). Effective 1/1/18, with the legislation delay and title IV-E waiver delay permitted per section 50746(a)(2) and (d) of P.L. 115-123. HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Modifies existing title IV-B, subpart 1 plan requirement related to child maltreatment deaths:** Requires states to describe the steps they are taking to track and compile complete information on child maltreatment deaths from several specified sources and steps to develop and implement a statewide plan to prevent fatalities (section 422(b)(19) of the Act). Effective 10/1/18, with the legislation delay permitted per section 50734(b)(1) of P.L. 115-123.
- **Modifies Title IV-B, Subpart 2 Service Definitions:**
  - Revises the definition of “family support services” to include supporting and retaining foster families so they can provide quality family-based settings for children in foster care (section 431(a)(2)(B)(iii) of the Act). Effective upon enactment (2/9/18).
  - Revises and renames the definition of “family reunification services” (formerly “time-limited family reunification services”) to allow 15 months of family reunification services for children who return home from foster care, and to remove the 15-month limitation for a child in foster care to receive reunification services (section 431(a)(7)(A) of the Act). Effective 10/1/18.
- **Grant for foster family recruitment and retention:** Authorizes \$8,000,000 (from money not otherwise appropriated out of the Treasury) for FY 2018 for competitive grants to states, Indian

tribes, or tribal consortia for the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings. The grants must be focused on states, Indian tribes, or tribal consortia with the highest percentage of children in non-family settings and the funding must remain available through FY 2022 (section 436(c) of the Act). Effective upon enactment (2/9/18).

- **Title IV-B, subpart 2 grants for electronic interstate case-processing system:** Authorizes a \$5,000,000 set aside from the discretionary appropriation for Promoting Safe and Stable Families program for discretionary grants for states to develop an electronic interstate case-processing system to expedite interstate placements of children in foster, guardianship, or adoptive homes (section 437(g) of the Act). Effective 10/1/2018.
- **Revises and re-names the regional partnership grant (RPG) program that assists families affected by substance abuse to focus on heroin, opioids, and other substance abuse:**
  - Requires that the state child welfare agency and the state agency that administers the substance abuse prevention and treatment block grant to be partners in the grant application, and slightly revises the list of optional partners.
  - Requires that the grants be disbursed in two separate phases: a planning phase and an implementation phase, expands the current RPG application requirements to include descriptions of additional substance abuse and treatment goals and outcomes for children, parents and families, and requires semiannual reports from grantees to the Secretary (current requirement is an annual report).
  - Reauthorizes the grant program through FY 2021, and reduces the authorized possible grant amounts from between \$500,000 to \$1,000,000 to between \$250,000 and \$1,000,000 (section 436(b)(5) and 437(f) of the Act).
  - Effective date: 10/1/18.
- **Court Improvement Program training on non-foster family homes:** Amends the Court Improvement Program to require state court grantees, as a condition of receiving a Court Improvement Program grant, to train specified legal professionals on child welfare policies and title IV-E payment limitations for children in non-foster family homes (section 438(b) of the Act). Effective as if enacted on 1/1/18.

#### ***Title IV-B, subpart 3:***

- **Data exchange standards:** Amends title IV-B, subpart 3 requirements for regulations designating federally required data exchange standards for title IV-B/IV-E agencies in consultation with an OMB interagency work group for:
  - Information that title IV-B and IV-E agencies are required under Federal law to electronically exchange with another agency, and
  - Federal reporting and data exchanges required by law (section 440 of the Act).

#### ***HHS Reports to Congress:***

- **Electronic interstate case-processing system required by title IV-E:** Implementation of the electronic interstate case-processing system (section 437(g)(5) of the Act).
- **Outcome measures on children currently or previously in foster care:** Description and analysis of outcome measures using data from the National Youth in Transition Database and any other data related to outcome measures for such children (section 477(f)(2) of the Act).
- **Title IV-B, subpart 1 protocols to prevent inappropriate diagnoses:** HHS must evaluate this requirement and report to Congress (section 476(e) of the Act).
- **Title IV-E Prevention Programs:** Periodic reports based on the provision of title IV-E prevention services and programs and the technical assistance, best practices, clearinghouse, data collection,

and evaluations carried out by HHS under section 476(d) of the Act relating to prevention services and programs (section 476(d)(4) of the Act).

***Government Accountability Office (GAO) studies and reports:***

- **State reinvestment of savings resulting from increase in adoption assistance:** GAO must study and report to Congress and to HHS on the extent to which states are complying with the requirements in section 473(a)(8) of the Act related to reinvesting the savings resulting from the phase out of the AFDC income eligibility requirements for title IV-E adoption assistance payments (section 50782 of P.L. 115-123). No dates specified.
- **Impact of congregate care limits on juvenile justice:** GAO must study and report to Congress, by 12/31/2025, the impact of the title IV-E foster care maintenance payments limit on state juvenile justice systems (section 50741(d)(2) of P.L. 115-123).

The Children’s Bureau will provide further guidance on the title IV-B and IV-E provisions through Program Instructions at a later date.

**INQUIRIES TO:** Children’s Bureau Regional Program Managers

/s/

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Jerry Milner  
Commissioner, ACYF

**Attachments:**

- A – [Public Law 115-123](#) (FFPSA: pages 169-206)
- B – Time-limited foster care prevention program and services
- C – Limitations on title IV-E foster care payments for placements that are not foster family homes
- D – CB Regional Office Program Managers

## **Attachment B: Time-Limited Foster Care Prevention Program And Services**

**Prevention Services and Programs Five-Year Plan:** States electing to provide title IV-E prevention services and programs must submit a *Prevention Services and Programs* five-year plan as part of the title IV-E plan (section 471(e)(5) of the Social Security Act (the Act)). The five-year plan must describe:

- The target population for the services or programs and how the state will assess children and their parents or kin caregivers to determine eligibility for services or programs.
- How providing services and programs is expected to improve specific outcomes for children and families.
- How the state will monitor and oversee the safety of children who receive services and programs, including through periodic risk assessments and reexamination of the child's prevention plan if the agency determines the risk of the child entering foster care remains high despite the provision of the services or programs.
- The specific promising, supported, or well-supported practices the state plans to use for the services or programs, whether the practices used are promising, supported, or well-supported, and how the agency selected the services or programs.
- How the state plans to implement the services or programs, including how implementation will be continuously monitored to ensure fidelity to the practice model and to determine outcomes achieved and how information learned from the monitoring will be used to refine and improve practices.
- How each service or program provided will be evaluated through a well-designed and rigorous process, which may consist of an ongoing, cross-site evaluation approved by HHS.
- The consultation engaged in with other agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services, including community-based organizations and how the services or programs will be coordinated with other child and family services provided under title IV-B of the Act.
- The steps the state is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services and how the agency will provide training and support for caseworkers in assessing needs, connecting to the families served, knowing how to access and deliver the needed trauma-informed and evidence-based services, and overseeing and evaluating the continuing appropriateness of the services.
- How caseload size and type for prevention caseworkers will be determined, managed, and overseen.
- An assurance that the state will report to HHS information and data (determined by HHS) on the provision of services and programs.

### **Allowable Services and Service Period:**

- Allowable services:
  - Mental health and substance abuse prevention and treatment services provided by a qualified clinician (section 471(e)(1)(A) of the Act).
  - In-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling (section 471(e)(1)(B) of the Act).

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- All services must meet the service and practice requirements outlined in section 471(e)(4) of the Act (also described below).
- *Limitation:* The allowable services are limited to a 12-month period that begins on the date on which a child is identified in a prevention plan as either a “candidate for foster care” or a pregnant/parenting youth in need of those services or programs (section 471(e)(1)(A) and (B) of the Act).

**Served Population:**

- The state may provide services and programs to the following:
  - A child who is a “candidate for foster care” (as defined in section 475(13) (the Act)) but can remain safely at home or in a kinship placement with receipt of allowable services or programs (section 471(e)(2)(A) of the Act).
    - “Candidate for foster care” is defined as a child identified in a prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship payments) but who 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 of the child into foster care are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement (section 475(13) of the Act).
  - A child in foster care who is a pregnant or parenting foster youth (section 471(e)(2)(B) of the Act).
  - Parents or kin caregivers of the listed above (section 471(e)(1) of the Act).

**Prevention and Family Services and Programs Requirements:** The state must meet the following requirements if it elects to provide prevention services and programs:

1. The programs and services must be specified in advance in the child’s prevention plan (section 471(e)(4)(A) of the Act).
2. The programs and services must be trauma-informed (section 471(e)(4)(B) of the Act).
3. The programs and services must be provided in accordance with general practice requirements and promising, supported, or well-supported practices (section 471(e)(4)(C) of the Act).
4. The state meets the outcome assessment and reporting requirements (section 471(e)(4)(E) of the Act).
5. An evaluation strategy must be included for each program or service in the state’s five-year prevention plan (section 471(e)(5)(B)(iii)(V) of the Act).

**1. Prevention Plan for Child:** The state must maintain a written prevention plan for the child that meets the following requirements (as applicable):

- *For “candidates for foster care” the prevention plan must:*
  - identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;
  - list the services or programs to be provided to or on behalf of the child to ensure the success of that prevention strategy; and

- comply with other requirements HHS establishes (section 471(e)(4)(A)(i) of the Act).
- *For pregnant/parenting foster youth, the prevention plan must:*
  - be included in the child's case plan,
  - list the services or programs to be provided to or on behalf of the youth to ensure that 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,
  - describe the foster care prevention strategy for any child born to the youth, and
  - comply with other requirements that HHS establishes (section 471(e)(4)(A)(ii) of the Act).

**2. Trauma-Informed Approach:** The services or programs must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing (section 471(e)(4)(B) of the Act).

**3. Programs Must Be Provided in Accordance with General and Promising, Supported, or Well-Supported Practices:**

- **General Practice Requirements.** Practices must meet the following:
  - *Book or manual:* The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.
  - *No empirical risk of harm:* There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.
  - *Weight of evidence supports benefits:* If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.
  - *Reliable and valid outcome measures:* Outcome measures are reliable and valid, and are administrated consistently and accurately across all those receiving the practice.
  - *No case data for severe or frequent risk of harm:* There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent (section 471(e)(4)(C)(ii) of the Act).
- **Promising Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that:
  - was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed, and
  - utilized some form of control (such as an untreated group, a placebo group, or a wait list study) (section 471(e)(4)(C)(iii) of the Act).
- **Supported Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes,

such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that:

- was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed,
  - was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design),
  - was carried out in a usual care or practice setting, and
  - established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of the treatment (section 471(e)(4)(C)(iv) of the Act).
- **Well-Supported Practice Requirements:** The practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of:
    - at least two studies that were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed,
    - at least two studies that were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design),
    - at least two studies that were carried out in a usual care or practice setting, and
    - at least one of the studies must have established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment (section 471(e)(4)(C)(v) of the Act).

**4. Individual Child Outcome Assessment and Annual Reporting:** The state must collect and report to HHS the following information for each child for whom, or on whose behalf mental health and substance abuse prevention and treatment services or in-home parent skill-based programs are provided:

- The specific services or programs provided and the total expenditures for each of the services or programs,
- The duration of the services or programs provided, and
- In the case of a child who is a candidate for foster care: the child's placement status at the beginning, and at the end of the one-year period, respectively, and whether the child entered foster care within two years after being determined a candidate for foster care (section 471(e)(4)(E) of the Act).

**5. Evaluation strategy:** The state must have well-designed and rigorous evaluation strategy for any promising, supported, or well-supported practice. HHS may waive this requirement if HHS deems the evidence of the effectiveness of the practice to be compelling and the state meets the continuous quality improvement requirements with regard to the practice (section 471(e)(5)(B)(iii)(V) of the Act). The state cannot receive FFP for the program or service unless the evaluation strategy is included in the five-year plan (described below) (section 471(e)(5)(C) of the Act).

**Prevention Services Measures and Annual Expenditure Updates:** Beginning with FY 2021, HHS must annually publish the following information for states electing to provide title IV-E prevention services and programs:

- The percentage of candidates for foster care for whom, or on whose behalf, the services or programs are provided who do not enter foster care, including those placed with a kin caregiver outside of foster care, during the 12-month period in which the services or programs are provided and through the end of the succeeding 12-month period, and
- The total amount of expenditures made for mental health and substance abuse prevention and treatment services or in-home parent skill-based programs, respectively, for, or on behalf of, each child (section 471(e)(6)(A) of the Act).

**Maintenance of Effort:** States providing title IV-E prevention services or programs must maintain the same level of “state foster care prevention expenditures” each FY as the amount the state spent in FY 2014. States must report the state foster care prevention expenditures for FY 2014 and each FY the state participates in the title IV-E prevention program. “State foster care prevention expenditures” are title IV-B, Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBG), and state or local agency program funds used for “state prevention services and activities.” HHS must specify the specific services and activities under each program that are “state prevention services and activities.” Title IV-E agencies with a population of children of less than 200,000 in FY 2014 may elect to use FY 2015 or FY 2016 instead of FY 2014 for this purpose (section 471(e)(7) of the Act).

**Parameters for FFP under Title IV-E for Time-Limited Foster Care Prevention Services and Programs:**

- Section 474(a)(6) of the Act is effective 10/1/2018, but claiming FFP may not begin until FY 2020.
- From FY 2020 – FY 2026, prevention services are reimbursable at 50 percent FFP.
- Beginning FY 2027, prevention services are reimbursable at the applicable FMAP
- At least 50 percent of the amount paid to the state in any FY must be for prevention services that meet the “well-supported” practice criteria.
- Administrative costs and training:
  - Beginning FY 2020, costs for the proper and efficient administration of the title IV-E prevention plan are reimbursable at 50 percent, including activities to promote the development of necessary processes and procedures to establish and implement the provision of the services and programs for individuals who are eligible for the services and programs and expenditures attributable to data collection and reporting. Allowable administrative costs are reimbursable without regard to whether expenditures are incurred for a child who is eligible, or potentially eligible for title IV-E foster care maintenance payments.(471(e)(9).
  - Beginning FY 2020, training costs are reimbursable at 50 percent for personnel employed or preparing for employment by the state agency or by the local agency administering the plan in the political subdivision and of the members of the staff

of state-licensed or state-approved child welfare agencies providing services to children who are candidates for foster care and pregnant/parenting foster youth (and their parents or kin caregiver). Allowable training topics include how to determine who is eligible for the prevention services or programs, how to identify and provide appropriate services and programs, and how to oversee and evaluate the ongoing appropriateness of the services and programs.

- Note on claiming FFP and the effective date of other provisions of P.L. 115-123: A title IV-E agency may request a delayed effective date not to exceed two years for the following provisions: 472(a)(2)(C), 472(c), 472(k), 474(a)(1), 471(a)(37), and 475A(c) of the Act. If so, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (section 50746(b) of P.L. 115-123).

**Guidance on Practice Criteria and Pre-Approved Services and Programs:** HHS must issue guidance no later than October 1, 2018 to states regarding the practices criteria required for services or programs and update as necessary. The guidance must include a pre-approved list of services and programs that satisfy the requirements.

**Tribal Title IV-E Agencies:** For tribal title IV-E agencies, HHS must specify requirements for the provision of the services and programs that are, to the greatest extent practicable, consistent with the requirements applicable to states. The requirements must permit tribes to provide services and programs that are adapted to the culture and context of the tribal communities served. HHS must also establish specific performance measures for each tribal title IV-E agency providing prevention services that allow for consideration of factors unique to the provision of the services by tribes and to the greatest extent practicable, consistent with the measures for states (section 479B(c)(1)(C)(i)(IV) and (c)(1)(E) of the Act).

**Technical Assistance, Research and Training:**

- Technical assistance: HHS must provide technical assistance and best practices regarding the provision of title IV-E prevention services and programs, including on how to plan and implement the requirement to evaluate the promising, supported, or well supported practices.
- Clearinghouse: HHS must, directly or through grants, contracts or interagency agreements, evaluate research on the promising, supported, or well-supported practices and programs, including culturally specific, or location- or population-based adaptations, to identify and establish a public clearinghouse of the promising, supported, or well-supported practices. The clearinghouse must include specific information on whether the promising, supported, or well-supported practice has been shown to prevent child abuse and neglect or reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.
- Data collection and evaluation: HHS may, directly or through grants, contracts or interagency agreements, collect data and evaluate programs and services to assess the extent to which the provision of the services and programs reduces the likelihood of foster care placement, increases kinship arrangements or improves child well-being.

- Report to Congress: HHS must provide periodic, publicly available reports on the provision of title IV-E prevention programs and services.
- Appropriations: The bill provides \$1 million per year beginning FY 2018 for the above activities (section 476(d) of the Act).

## **Attachment C: Limitations on Title IV-E foster care payments for placements that are not foster family homes**

### **Restrictions on Federal Financial Participation (FFP) for Children Placed in a Child Care Institution (CCI):**

- Title IV-E agencies may claim title IV-E for foster care maintenance payments (FCMP) paid on behalf of an eligible child placed in any CCI for up to two weeks. Title IV-E agencies may claim administrative costs for the duration of the child’s placement in a CCI regardless of whether the CCI is a specified setting as described below (section 472(k) of the Social Security Act (the Act)).
- After two weeks, title IV-E FCMPs for a child placed in a CCI are only available if that CCI is one of the following specified settings:
  - “qualified residential treatment program” (QRTP), as defined in section 472(k)(4) of the Act and subject to additional requirements in section 475A(c) as described below;
  - a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
  - in the case of a youth who has attained 18 years of age, a supervised setting in which the youth is living independently;
  - 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; or
  - a licensed residential family-based treatment facility for substance abuse (subject to additional requirements per section 472(j) of the Act).
- Effective 10/1/19. A title IV-E agency may request a delayed effective date not to exceed two years, and if so, the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (section 50746(b) of P.L. 115-123).

### **Qualified Residential Treatment Program (QRTP) Program Requirements:** A QRTP must be a program that:

- has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the required 30 day assessment (described below) of the appropriateness of the QRTP placement;
- to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;
- facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
- documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- provides discharge planning and family-based aftercare support for at least 6 months post-discharge;
- is licensed in accordance with the title IV-E requirements (section 471(a)(10) of the Act) and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation

**Disclaimer:** Information Memoranda (IMs) provide information or recommendations to States, Tribes, grantees, and others on a variety of child welfare issues. IMs do not establish requirements or supersede existing laws or official guidance.

(COA), or any other independent, not-for-profit accrediting organization approved by HHS; and

- has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state/tribal law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week. A rule of construction in section 472(k)(6) of the Act indicates that this requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship (sections 472(k)(4) of the Act).

***QRTP Placement Requirement – 30-day Assessment of the Appropriateness of a QRTP Placement:***

- A “qualified individual” must assess a child to determine the appropriateness of a placement in a QRTP for purposes of approving the case plan and the case system review procedure for the child (see described below) (section 475A(c) of the Act).
- If the assessment is not completed within 30 days after the placement is made, the title IV-E agency cannot claim title IV-E for a FCMP for the duration of the placement (section 472(k)(3)(A) of the Act).
- A “qualified individual” is defined as a trained professional or licensed clinician who is not an employee of the agency, and who is not connected to, or affiliated with, any placement setting in which children are placed by the agency. HHS may waive the “qualified individual” requirements if the title IV-E agency certifies that the trained professionals or licensed clinicians will maintain objectivity with respect to determining the most effective and appropriate placement for a child. The “qualified individual” must:
  - assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;
  - determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which allowable CCI setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
  - develop a list of child-specific short- and long-term mental and behavioral health goals; and
  - work in conjunction with the child’s family and permanency team (further described below) while conducting and making the required 30-day assessment.
- If the “qualified individual” determines the child should not be placed in a foster family home, he/she must specify in writing:
  - the reasons why the child’s needs can’t be met by the family or in a foster family home (a shortage of foster family homes is not an acceptable reason for determining the child’s needs cannot be met in a foster family home); and
  - why the recommended placement in a QRTP is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child (section 475A(c)(1) of the Act).

***QRTP Placement Requirement – Family and Permanency Team Requirements:*** The title IV-E agency must assemble a family and permanency team for the child placed in the QRTP in accordance with specified requirements.

- The team must consist of all appropriate biological family members, relative, and fictive kin of the child, as well as professionals (as appropriate) who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy.
- If the child is age 14 or older, the team must also include the members of the permanency planning team for the child that are selected by the child in accordance with the title IV-E case planning requirements (section 475A(c)(1)(B)(i) and (ii) of the Act).

***QRTP Placement Requirement – Case Plan Requirements:*** For a child placed in a QRTP, the title IV-E agency must document the following in the child’s case plan:

- the reasonable and good faith effort of the agency to identify and include all the individuals required to be on the child’s family and permanency team;
- all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;
- evidence that meetings of the family and permanency team, including meetings relating to the required 30-day assessment of the appropriateness of the QRTP placement, are held at a time and place convenient for family;
- if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;
- evidence that the required 30-day assessment to determine the appropriateness of the QRTP is determined in conjunction with the family and permanency team;
- the placement preferences of the family and permanency team relative to the required 30-day assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest;
- if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the required 30-day assessment of the appropriateness of the QRTP, the reasons why the preferences of the team and of the child were not recommended; and
- the written recommendation by the qualified individual regarding the appropriateness of the QRTP placement and the court approval or disapproval of the QRTP placement (section 475A(c)(1)(B)(iii) and (C), and 475A(c)(3) of the Act).

***QRTP Placement Requirement – 60-day Court Approval:*** Within 60 days of the start of each placement in a QRTP, 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, independently, must:

- consider the required 30-day assessment of the appropriateness of the QRTP, and documentation made by the qualified individual conducting the assessment;
- determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether

that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

- approve or disapprove the placement. Such approval or disapproval must be documented in the case plan (section 475A(c)(2) of the Act).

***QRTP Placement Requirement – Ongoing Review and Permanency Hearing Requirements:***

As long as a child remains placed in a QRTP, the title IV-E agency shall submit evidence at each status review and each permanency hearing held for the child:

- demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
- documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
- documenting the efforts made by the agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 475A(c)(4) of the Act).

**Additional reporting requirements for extended QRTP placements:** If a title IV-E agency places a child in a QRTP for more than 12 consecutive months, or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months, the title IV-E agency must submit to HHS:

- the most recent versions of the evidence and documentation submitted for the most recent status review or permanency hearing; and
- the signed approval of the head of the title IV-E agency for the continued placement of the child in that setting (section 475A(c)(5) of the Act).

**Funding during transition out of QRTP:**

- The title IV-E agency may claim title IV-E FCMPs during the period necessary for a child to transition out of a QRTP for up to 30 days from the date a determination is made that the placement is no longer the recommended or approved placement for the child when:
  - the required 30 day assessment determines that the QRTP placement is not appropriate;
  - a court disapproves the QRTP; or
  - a child is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 472(k)(3)(B) of the Act).

**Attachment D**

**Regional Office Program Managers – Children’s Bureau**

|   |  |    |  |
|---|--|----|--|
| 1 | <b>Region 1 - Boston</b><br>Bob Cavanaugh<br><a href="mailto:bob.cavanaugh@acf.hhs.gov">bob.cavanaugh@acf.hhs.gov</a><br>JFK Federal Building, Rm.<br>2000 15 Sudbury Street<br>Boston, MA 02203<br>(617) 565-1020<br><b>States:</b> Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont                 | 6  | <b>Region 6 - Dallas</b><br>Janis Brown<br><a href="mailto:janis.brown@acf.hhs.gov">janis.brown@acf.hhs.gov</a><br>1301 Young Street, Suite 945<br>Dallas, TX 75202-5433<br>(214) 767-8466<br><b>States:</b> Arkansas, Louisiana, New Mexico, Oklahoma, Texas  |
| 2 | <b>Region 2 - New York City</b><br>Alfonso Nicholas<br><a href="mailto:alfonso.nicholas@acf.hhs.gov">alfonso.nicholas@acf.hhs.gov</a><br>26 Federal Plaza, Rm. 4114<br>New York, NY 10278<br>(212) 264-2890, x 145<br><b>States and Territories:</b> New Jersey, New York, Puerto Rico, Virgin Islands                       | 7  | <b>Region 7 - Kansas City</b><br>Deborah Smith<br><a href="mailto:deborah.smith@acf.hhs.gov">deborah.smith@acf.hhs.gov</a><br>Federal Office Building, Rm.<br>349 601 E 12th Street<br>Kansas City, MO<br>64106 (816) 426-2262<br><b>States:</b> Iowa, Kansas, Missouri, Nebraska  |
| 3 | <b>Region 3 - Philadelphia</b><br>Lisa Pearson<br><a href="mailto:lisa.pearson@acf.hhs.gov">lisa.pearson@acf.hhs.gov</a><br>The Strawbridge Building<br>801 Market Street<br>Philadelphia, PA 19107-3134<br>(215) 861-4030<br><b>States:</b> Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia | 8  | <b>Region 8 - Denver</b><br>Marilyn Kennerson<br><a href="mailto:marilyn.kennerson@acf.hhs.gov">marilyn.kennerson@acf.hhs.gov</a><br>1961 Stout Street, 8 <sup>th</sup> Floor<br>Byron Rogers Federal Building<br>Denver, CO 80294-3538<br>(303) 844-1163<br><b>States:</b> Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming   |
| 4 | <b>Region 4 - Atlanta</b><br>Shalonda Cawthon<br><a href="mailto:shalonda.cawthon@acf.hhs.gov">shalonda.cawthon@acf.hhs.gov</a><br>61 Forsyth Street SW, Ste. 4M60<br>Atlanta, GA 30303-8909<br>(404) 562-2242<br><b>States:</b> Alabama, Mississippi, Florida, North Carolina, Georgia, South Carolina, Kentucky, Tennessee | 9  | <b>Region 9 - San Francisco</b><br>Debra Samples<br><a href="mailto:debra.samples@acf.hhs.gov">debra.samples@acf.hhs.gov</a><br>90 7 <sup>th</sup> Street - Ste 9-300<br>San Francisco, CA 94103<br>(415) 437-8626<br><b>States and Territories:</b> Arizona, California, Hawaii, Nevada, Outer Pacific—American Samoa Commonwealth of the Northern Marianas, Federated States of Micronesia (Chuuk, Pohnpei, Yap) Guam, Marshall Islands, Palau |
| 5 | <b>Region 5 - Chicago</b><br>Kendall Darling<br><a href="mailto:kendall.darling@acf.hhs.gov">kendall.darling@acf.hhs.gov</a><br>233 N. Michigan Avenue, Suite 400<br>Chicago, IL 60601<br>(312) 353-9672<br><b>States:</b> Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin   | 10 | <b>Region 10 - Seattle</b><br>Tina Naugler<br><a href="mailto:tina.naugler@acf.hhs.gov">tina.naugler@acf.hhs.gov</a><br>701 Fifth Avenue, Suite 1600, MS-73<br>Seattle, WA 98104<br>(206) 615-3657<br><b>States:</b> Alaska, Idaho, Oregon, Washington   |

# TAB 3



Chief Justice Matthew B. Durrant  
Chairperson, Utah Judicial Council

September 21, 2018

Richard H. Schwermer  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

VIA Electronic Delivery

Senator Allen M. Christensen, Chair  
Child Welfare Legislative Oversight Panel  
Utah State Senate Office  
State Capitol Suite 320  
350 N. State Street  
Salt Lake City, Utah 84114

Representative Rebecca P. Edwards, Chair  
Child Welfare Legislative Oversight Panel  
Utah House of Representatives Office  
State Capitol Suite 350  
350 N. State Street  
Salt Lake City, Utah 84114

Dear Senator Christensen and Representative Edwards:

The Juvenile Court submits this report on the timely occurrence of child welfare proceedings and the reasons for delay pursuant to Utah Code Ann. § 62A-4a-207 (2014). The Court continues to enhance its automated resources to collect data and track compliance with the performance measures listed in statute. We appreciate this opportunity to share information with the Panel and are pleased to report the positive work of the Juvenile Courts.

Sincerely,

A handwritten signature in blue ink that reads "Dawn Marie Rubio".

Dawn Marie Rubio, J.D.  
Juvenile Court Administrator

cc: Senator Gene Davis w/encl.  
Representative Christine Watkins w/ encl.  
Representative Sandra Hollins w/encl.  
Mark Andrews w/encl.

**The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

# **Child Welfare Statutory Time Requirements Report**

Fiscal Year 2018  
(July 1, 2017-June 30, 2018)



Administrative Office of the Courts  
P. O. Box 140241  
450 South State Street  
Salt Lake City, Utah 84114-0241  
(801) 578-3800

## **I. Annual Reporting Requirements**

Pursuant to Utah Code Ann. § 62A-4a-207 (2014), the Child Welfare Legislative Oversight Panel is charged with receiving a report from the Judicial Branch prior to October 1 of each year. The report shall identify the cases not in compliance with the time limits established in Section 78A-6-306 (1)(a), regarding shelter hearings, Section 78A-6-309, regarding pretrial and adjudication hearings, Section 78A-6-312, regarding dispositional hearings and reunification services, and Section 78A-6-314, regarding permanency hearings and petitions for termination, and the reasons for noncompliance.<sup>1</sup>

## **II. Data**

The data in this report consists of all new cases that entered the court system via a shelter hearing during FY 2018. (See Overview of Child Welfare Measures-July 1, 2017 to June 30, 2018 attached at page 9.) Included in this report are any cases that were previously active cases at some stage of the proceedings and had a subsequent hearing during FY 2018. Thus, the data represents a snapshot of all child welfare court proceedings during the one-year timeframe, rather than tracking each individual case from start to finish in a single report.

### **Shelter Hearings (§78A-6-306)(1)(a)**

*(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after the removal of the child from the child's home by the division.*

Of 1,507 shelter hearings, 1,474 shelter hearings or 98% occurred within the 72 hour requirement. The most frequently cited reasons for delay were the court's calendar or counsel made request/unavailable.

### **Pretrial and Adjudication Hearings (§78A-6-309)**

*(1) Upon the filing of a petition, the clerk of the court shall set the pretrial hearing on the petition within 15 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.*

*(2) The pretrial may be continued upon motion of any party, for good cause shown, but the final adjudication hearing shall be held no later than 60 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.*

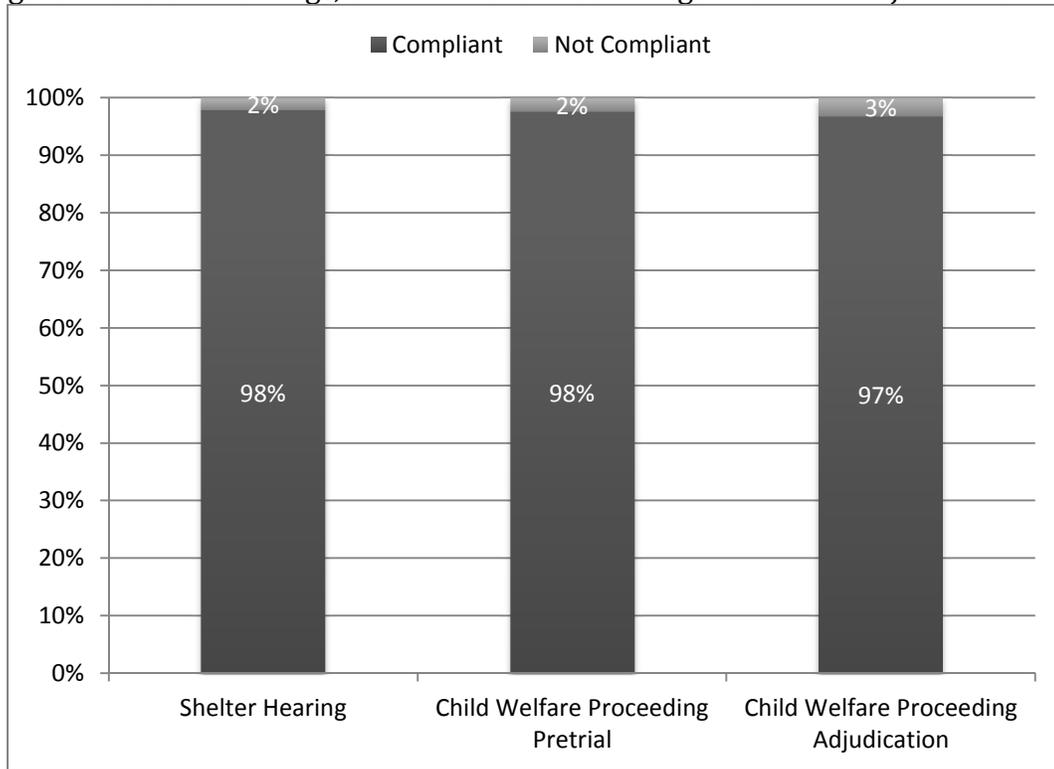
Of 1,848 pretrial hearings, 98% occurred within the 15 day requirement. Of the cases that were not compliant, the most common reason for delay was stipulation of parties. Adjudication of the petition must take place within 60 days of the shelter hearing. Of 1,771 adjudication hearings, 97% were held within the

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<sup>1</sup> U.C.A. §62A-4a-207(4)(c)(2014).

required time frame. The primary contributing factor to noncompliant cases in this category was stipulation of the parties, followed by failure of a party to appear/unable to locate.

Figure 1. Shelter Hearings, Child Welfare Proceedings Pretrial & Adjudication



**Dispositional Hearings and Reunification Services (§78A-6-311, 312)**

*Pursuant to §78A-6-311(2) a dispositional hearing “shall be held no later than 30 calendar days after the date of the adjudication hearing.”*

In many cases, dispositional orders are entered at the adjudication hearing. Of 1,785 dispositional hearings, 99% occurred within the 30 day requirement. Most of the remaining cases were impacted by a stipulation of the parties.

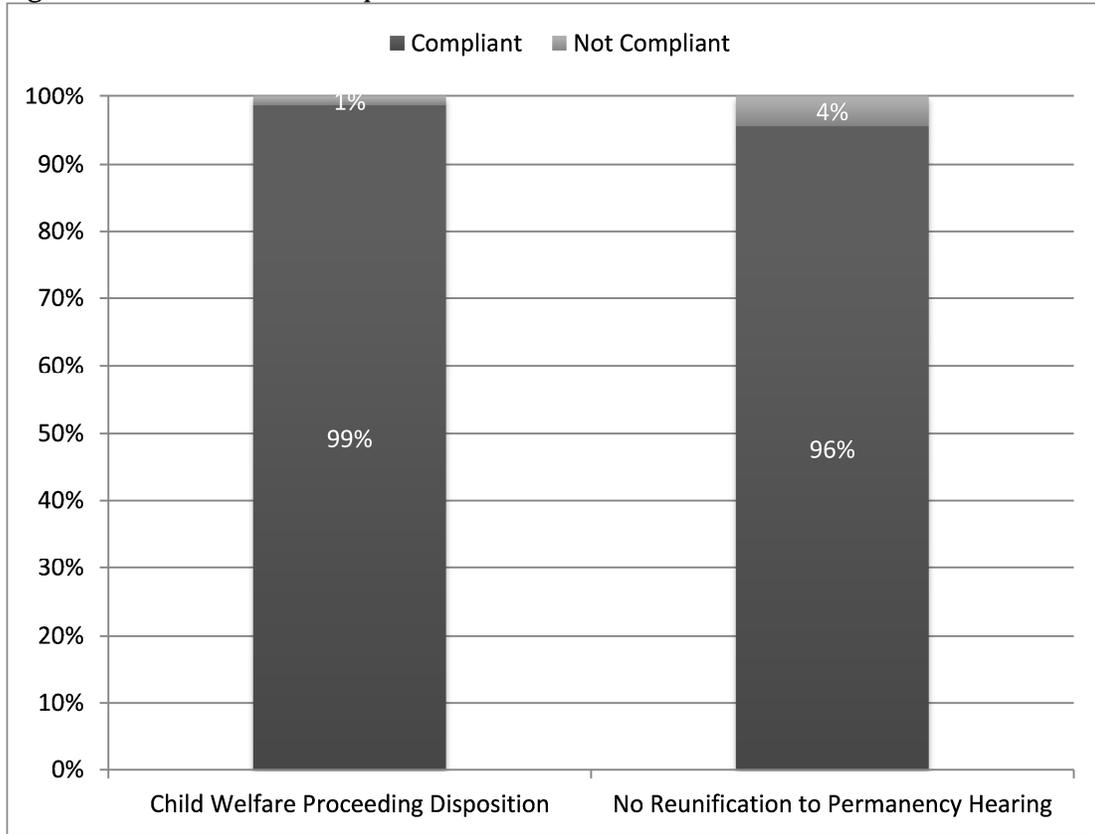
*§78A-6-312(10)(c): If, at any time, the court determines that reunification is no longer a minor’s primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:*

- (i) 30 days after the day on which the court makes the determination described in this Subsection(10)(c); or*
- (ii) The day on which the provision of reunification services, described in Section 78A-6-314, ends.*

Of the 408 cases in which the court terminated reunification services, permanency proceedings were conducted within 30 days of the no

reunification decision in 96% of the cases. The most frequent reasons cited for delay were the court’s motion or calendar/judge unavailable, and stipulation of the parties.

Figure 2. Child Welfare Disposition & No Reunification



**Permanency Hearings and Petitions for Termination (§78A-6-314)**

*(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a child who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor’s home.*

Of the 1,407 cases, 96% had a permanency hearing within 12 months of removal. The most frequently cited reason for delay was a stipulation of the parties.

*(9) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.*

In cases in which the final plan was to proceed toward termination of parental rights, 78% of those petitions were filed and a pre-trial scheduled within 45

calendar days. The court sets a termination of parental rights pretrial hearing if the child's permanency goal is changed to adoption, but must rely on counsel for the timely filing of petitions for termination.

While there are multiple reasons for delay at this stage of the proceeding, the most common reasons are: 1) a stipulation of the parties; 2) case or party failure to appear; or 3) court's motion or calendar/judge unavailable. Stipulation of the parties accounted for 44% of cases outside of standard. Delay can be due, in part, to a general reluctance to petition for termination of parental rights unless a child is already placed in a home likely to result in adoption. Delay may also result from the state's inability to locate one or both of the parents for service of the petition, or when paternity questions are unresolved.

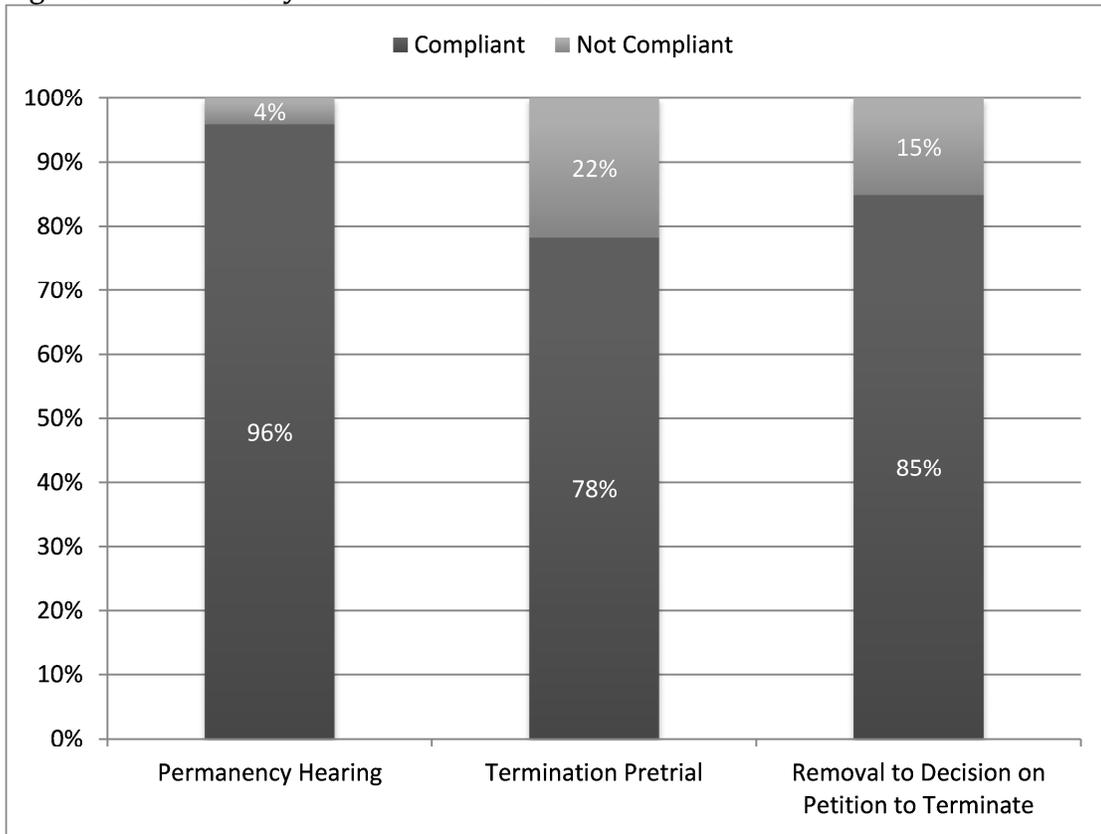
### **Decisions on Petitions to Terminate Parental Rights (§78A-6-314)**

*(12)(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.*

When measuring the timeliness of decisions on termination petitions, 85% met the statutory requirement. Almost two-thirds of the noncompliant cases were attributed to a stipulation of the parties. Timeliness in this area is also reliant on both the court and counsel. After the court renders a decision, the court requires the prevailing party to submit a proposed order to the court for signature.

In addition, the statute allows the court to enter up to two 90-day continuances of reunification services following the 12-month permanency hearing. Continuances are granted in specific circumstances in which the parent has complied with the child and family plan and reunification is likely within the 90 day period. Decisions to grant extensions must be balanced against the child's need for permanency. In cases in which a second 90-day extension is granted, timelines will frequently be pushed beyond the 18-month time limit set forth in 78A-6-314(12).

Figure 3. Permanency & Termination Measures



**Protective Services Supervision Petitions §78A-6-309**

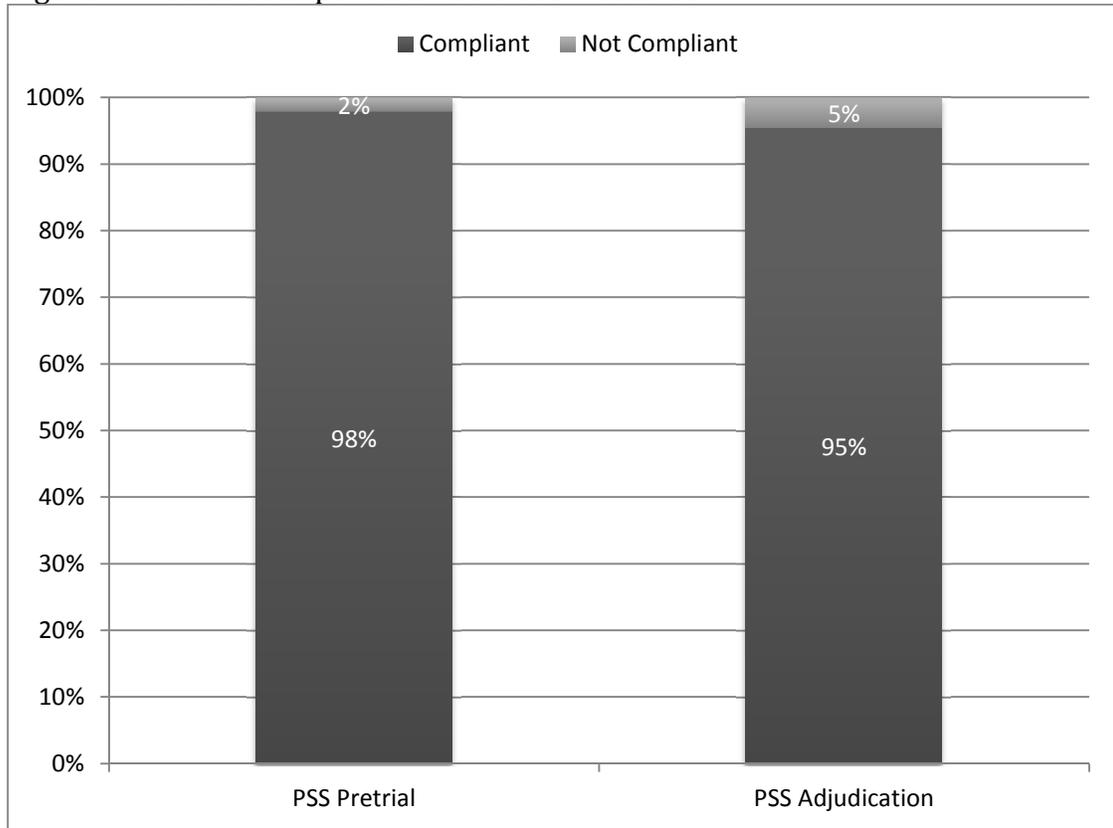
*(1) Upon the filing of a petition, the clerk of the court shall set the pretrial hearing on the petition within 15 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.*

*(2) The pretrial may be continued upon motion of any party, for good cause shown, but the final adjudication hearing shall be held no later than 60 calendar days from the later of: (a) the date of the shelter hearing; or (b) the filing of the petition.*

In Protective Services Supervision (“PSS”) cases, families receive court-ordered services from the Division of Child and Family Services while the children remain in their homes or the home of a relative. PSS cases must be set for pretrial in 15 days and for an adjudication trial in 60 days. Although the statutory guidelines do not require the judiciary to report information regarding the timeliness of PSS cases, this information has been reported since 2004 because it represents a significant volume of petitions filed.

During FY 2018, 1,504 PSS petitions were filed. Pre-trial hearings were held within 15 days of filing in 98% of the cases. During the same period, 1,321 PSS cases were tracked from filing to adjudication and 95% received the required adjudication hearing within 60 days.

Figure 4. Protective Supervision Services Measures



### III. Reasons for Delay and Delay Reduction Strategies

The CARE child welfare time line reporting system allows clerks to document the reasons for non-compliant cases in which a hearing is not timely held. The most frequently cited reasons for delay involve scheduling conflicts and stipulated agreements of the parties. The Juvenile Court continues to manage the need to grant appropriate continuances against compliance with statutory timeframes. This involves a delicate balance between applying time standards and the overarching need to provide for the safety, well-being and permanency of court involved children.

The Juvenile Court engages in a process of continuous quality improvement in measuring and reporting compliance data. To improve performance, the Board of Juvenile Court Judges, Trial Court Executives, and Clerks of Court review child welfare time line data biannually and monitor progress with statutory compliance. In addition, data is reviewed at an annual meeting of Presiding Judges and Trial Court Executives, which includes discussions on the efficient use of judicial resources, case processing methods and use of electronic records. The Juvenile Court has fully implemented electronic filing of court documents pursuant to Rule 4-901 of the Code of Judicial Administration. The availability of electronic case records improves accuracy of record keeping and data quality. The Court continues to work to improve data entry, data quality, and reporting to

more effectively identify, track, and address cases not in compliance with statutory time lines.

#### **IV. Conclusions**

The judiciary thanks the Panel for this opportunity to report and share information on the efforts of Utah's Juvenile Court to ensure timely permanency for children. As always, legislative representatives are welcome to observe child protection proceedings to gain a better understanding of the child welfare process. The Juvenile Court encourages all legislators to take advantage of this opportunity to observe juvenile court practice first hand. Please contact Dawn Marie Rubio, Juvenile Court Administrator, or Katie Gregory, Assistant Juvenile Court Administrator to facilitate court observation or supply any additional information that the Panel may require.

|  | Statutory Deadline | Incident Count | Compliant | Not Compliant | Percent Compliant | Percent Compliant within 15 Days after Benchmark | Percent Compliant within 30 Days after Benchmark |
|--|--------------------|----------------|-----------|---------------|-------------------|--|--|
| Shelter                                      | 3 days             | 1,507          | 1,474     | 33            | 98%               | 100%   | 100%   |
| Child Welfare Proceeding Pretrial            | 15 days            | 1,848          | 1,803     | 45            | 98%               | 100%   | 100%   |
| Child Welfare Proceedings Adjudication       | 60 days            | 1,771          | 1,713     | 58            | 97%               | 99%  | 100%   |
| Child Welfare Proceeding Disposition         | 30 days            | 1,785          | 1,761     | 24            | 99%               | 100%   | 100%   |
| No Reunification to Permanency Hearing       | 30 days            | 408            | 390       | 18            | 96%               | 98%  | 100%   |
| Permanency Hearing                           | 12 months          | 1,407          | 1,349     | 58            | 96%               | 99%  | 100%   |
| Termination Pretrial                         | 45 days            | 681            | 533       | 148           | 78%               | 89%  | 92%  |
| Removal to Decision on Petition to Terminate | 18 months          | 383            | 325       | 58            | 85%               | 87%  | 91%  |
| PSS Pretrial                                 | 15 days            | 1,504          | 1,472     | 32            | 98%               | 100%   | 100%   |
| PSS Adjudication                             | 60 days            | 1,321          | 1,256     | 65            | 95%               | 98%  | 99%  |

Overview of Child Welfare Measures—July 1, 2017 to June 30, 2018

[Last run date: September 7, 2018]

# TAB 4

## DRAFT BOARD OF JUVENILE COURT JUDGES: 2019 MEETING SCHEDULE DRAFT

### BOARD AND BENCH MEETINGS

| Date                          | Board/<br>Bench | Time                   | Location     | Notes  |
|-------------------------------|-----------------|------------------------|--------------|--|
| Friday, January 11, 2019      | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |
| Friday, February 8, 2019      | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |
| Thursday, March 7, 2019       | Board           | 12:00 P.M. - 4:00 P.M. | St. George   | In conjunction with Utah State Bar Spring Convention [March 7-9, 2019]                 |
| Wednesday, April 10, 2019     | Board           | 9:00 A.M. - 12 NOON    | Logan        | In conjunction with Juvenile Judges' Spring Conference [April 10-12, 2019]             |
| Friday, April 12, 2019        | Bench           | 8:00 A.M. - 10:00 A.M. | Logan        | In conjunction with Juvenile Judges' Spring Conference [April 10-12, 2019]             |
| Friday, May 10, 2019          | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson | Promising Youth Conference May 9-10, 2019  |
| Friday, June 14, 2019         | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |
| Friday, July 12, 2019         | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson | Possibly Price or Ogden??  |
| Friday, August 9, 2019        | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |
| Wednesday, September 11, 2019 | Board           | 9:00 A.M. - 12 NOON    | Park City    | In conjunction with Annual Fall Conference [September 11-13, 2019]                     |
| Friday, September 13, 2019    | Bench           | 8:00 A.M. - 10:00 A.M. | Park City    | In conjunction with Annual Fall Conference [September 11-13, 2019]                     |
| Friday, October 11, 2019      | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |
| Friday, November 8, 2019      | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson | Second Friday is November 9, 2018<br>[Veterans Day Holiday observed November 11, 2019] |
| Friday, December 13, 2019     | Board           | 9:00 A.M. - 3:00 P.M.  | SLC-Matheson |  |

*OCTOBER 2, 2018 VERSION--- PROPOSED 2019 MEETING SCHEDULE*