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FAMILY FIRST PREVENTION SERVICES ACT

August 2019

What to Expect

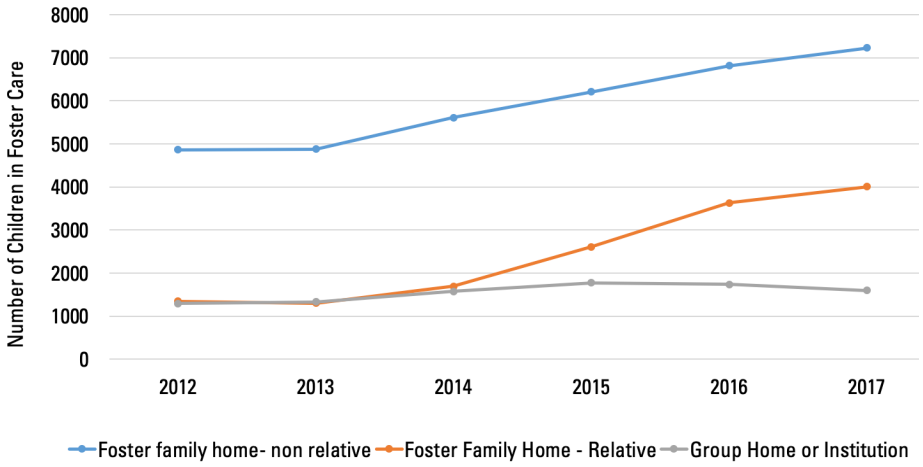
On Feb. 9, 2018, President Donald Trump signed into law the Bipartisan Budget Act of 2018 (H.R. 1892). The Family First Prevention Services Act (FFPSA) was included as Division E, Title VII of the budget act. The FFPSA makes significant changes to federal financial support of state child welfare programs, including new funding opportunities for services, new requirements for financing congregate care, and enhanced support for existing programs.[1]

Background

For the past 40 years, child welfare legislation has attempted to enable safe, stable home environments for system-involved children.[2] As such, federal guidelines require state child welfare systems to seek the "most family-like" setting possible for children, and make a "reasonable effort" to reunite children with their families of origin or find adoptive families.[2,3] This policy is supported by research, which indicates that children in foster care have a higher likelihood of poor physical and behavioral health outcomes compared to children living with their biological or adoptive families.[4,5] Similarly, children and youth placed in congregate care (group homes) tend to have worse outcomes than children placed in kinship care or with foster families.[5] However, there are a variety of barriers that keep children from being placed in family-like settings. Barriers include a shortage of foster parents, as well as difficulty placing older children, children with behavioral challenges or large sibling groups.[3,6–8]

While kinship placements have increased and congregate care placements have decreased in Georgia, overall, the number of children in foster care rose steadily between 2012 and 2017 (Figure 1). Georgia was one of six states where this increase was greater than 50%.[9] Furthermore, Georgia's expenditures on foster care more than doubled from just over $17 million in 2012 to nearly $40 million in 2018.[10,11] Multiple studies and reports attribute the general rise of foster care placements to the national opioid epidemic and increases in substance use among parents.[9,12] A recent study from the U.S. Department of Health and Human Services (HHS) supports a connection between the opioid epidemic, along with other addictive substances (alcohol, illicit

Figure 1: Georgia Children in Foster Care by Placement Type 2012-2017



Source: The Annie E. Casey Foundation, KIDS COUNT Data Center. (2018) Georgia Children in Foster Care by Placement Type in Georgia. Accessed at https://datacenter.kidscount.org

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drugs, etc.), and increased child welfare caseloads.[5] Other studies have also found a positive correlation between increased child welfare caseloads and the rise of infants diagnosed with neonatal abstinence syndrome, a birth condition directly connected to substance use during pregnancy.[12]

The FFPSA attempts to address the role that substance use, mental health, and systemic issues play in the growth of foster care placements by increasing opportunities for family preservation and reunification, and by preventing children from entering the foster care system altogether. The new law prioritizes federal funding for the treatment and support of parents and families where children are at risk of entering foster care, provides new requirements for congregate care, and lowers barriers for "special needs" adoptions. Additionally, the FFPSA seeks to support the administration's broader goal of "increasing State flexibilities and reducing administrative burdens in foster care."[13]

Family First Prevention Services Act – Key Provisions

Funding opportunities for new services

The main feature of the FFPSA is the opportunity for states to use federal Title IV-E funds for preventive services for children at risk of foster care placement and their families. Beginning Oct. 1, 2019, in addition to funding foster care programs, Title IV-E funds can also be used for specified evidence-based supports that have been shown to increase effective parenting, reduce neglect, and facilitate family reunification.[14] These include:

- Mental health services
- Substance use prevention and treatment services
- In-home parenting skills programs
- Statewide kinship navigator programs

HHS is reviewing evidence-based models for inclusion in its clearinghouse of promising, supported and well-supported, programs.[15] Funds for these programs can only be spent on children who are candidates for foster care (children at imminent risk of entering foster care, but who could remain at home safely if services were provided); children already in foster care who are pregnant or parenting; and parents or relatives of children who are candidates for foster care and in need of services. There are no income requirements for these services and they can be funded for up to 12 months.

In order to take advantage of this opportunity, states must include in their state IV-E child welfare plan information about the programs to be funded, how the state will monitor those programs, and the safety of the children involved. In addition, the state plan must include a well-designed evaluation strategy, as well as plans to collect and provide data to the secretary of HHS at regular intervals. Between Oct. 1, 2019, and Sept. 30, 2026, the federal government will match 50% of the program expenses paid for by the state. From Sept. 30, 2026 onward, the federal government will pay an amount equal to the Federal Medical Assistance Percentage that is paid to states for their Medicaid programs. Title IV-E funds remain available to states for training and administrative costs related to foster care programs.

New requirements for congregate care

Several other provisions in FFPSA are designed to reduce states' reliance on congregate care for children in the foster care system and encourage placement in foster family homes. Specifically, Title IV-E foster care maintenance payments will only be available for children living in the following settings:

- A foster family home;
- A licensed public or private child care institution that is:
  - A qualified residential treatment program (QRTP),
  - A setting designed to provide prenatal, postpartum or parenting supports for youth,
  - A supervised setting for youth 18 and older who live independently, or
  - A setting providing supports for children and youth who are sex trafficking victims or are at risk of becoming sex trafficking victims; and
- A licensed residential treatment facility where a parent is being treated for substance use.

These provisions are effective Oct. 1, 2019. States can delay implementation for up to two years, but no Title IV-E funds will be available during that time for any of the prevention services previously mentioned.

Finally, states must also create procedures and protocols, approved by HHS, to ensure that children in foster care are not being inappropriately diagnosed with mental health disorders. States also must certify that they will not enact policies that place more children in the juvenile justice system in response to new restrictions on federal spending for children placed in congregate care settings.

New requirements for qualified residential treatment programs

The FFPSA creates a new category of congregate care placement, the QRTP. For certification as a QRTP, a placement setting must meet the following requirements:

- Use a trauma-informed approach to address the needs of children with severe emotional or behavioral disorders
- Have registered or licensed nursing staff and other clinical staff providing care who are available at any time day or night
- Facilitate family participation in a child's treatment program
- Facilitate family outreach
- Provide discharge planning and family-based, after-care supports for at least six months post-discharge
- Be accredited by an accrediting organization approved by HHS

The FFPSA also includes new requirements to ensure the appropriateness of placement in a QRTP, including:

- Evaluation by a qualified individual within 30 days of placement to determine the appropriate level of care
- Maintenance of proper documentation of the need for QRTP services
- Court review within 60 days of placement in a QRTP
- Continuing demonstration of the need for placement in a QRTP at subsequent court hearings
- Submission to HHS of documentation and evidence supporting placement in a QRTP beyond 12 consecutive months

Enhanced support for existing programs

In addition to new funding opportunities and requirements for congregate care, the FFPSA also provides enhanced support for several existing programs:

- Eliminates the 15-month time limit on the use of Title IV-B funds for family reunification services and provides for 15 months of services to a child who is recently reunited with their family
- Provides support to relative caregivers by funding evidence-based kinship navigator programs
- Extends the Promoting Safe and Stable Families Program through 2021, with an $8 million appropriation for competitive grants to states
- Extends Title IV-B child welfare and family service programs for five years through fiscal year (FY) 2021
- Extends to age 23 the financing that is available for supports and services to former foster care youth
- Extends to age 26 eligibility for education and training vouchers for former foster care youth
- Reauthorizes the Adoption and Legal Guardianship Incentive Payment Program for five years through FY 2021

Next steps

HHS released some guidance for new prevention service programs as seen in the Administration for Children and Families' Memos.[16] There have been a number of program instructions released, the standards for the clearinghouse have been published, and its website is up with rated services. The federal government is in the process of vetting programs and releasing a list of pre-approved services and programs that satisfy the requirements.

Implications for Georgia

The FFPSA's goals are to preserve families, increase state flexibility with program administration, and reduce the burden of foster care on state governments. The FFPSA's new funding mechanisms and other reforms create several implications for Georgia and how the state will manage, fund, and evaluate its child welfare systems. The Division of Family and Children Services under the Georgia Department of Human Services will lead the state's response to these new federal policies.

To maximize the ability to support family preservation using Title IV-E funds, Georgia has to identify children who are at imminent risk of foster care placement, the needs of these children and families, and which evidence-based services will be most effective in preventing removal to foster care. There is a statewide need for evidence-based service capacity, which creates an opportunity for cross-agency collaboration. While building capacity to offer evidence-based services to families, the FFPSA creates an opportune time for the state to enhance other supports in communities that allow children to remain safely at home with their families.

To accomplish the FFPSA goal of ensuring the necessity of placement in a setting that is not a foster family home, Georgia will need to evaluate its current placement continuum, the needs of children in foster care, and the continued role of

congregate care. The state will need to build QRTP capacity, which will require time and investment in accreditation and building program models to meet stated requirements. Not all children who are currently placed in congregate care will need treatment in QRTPs; therefore, the state will need to explore several strategies, including increasing kinship placements, the availability of foster family homes, and reinstituting therapeutic foster care to potentially decrease the use of congregate care.

The provisions in the FFPSA invite states to expand family preservation and reexamine placements for children in foster care in order to minimize trauma and promote reunification. While there is new IV-E funding for the evidence-based prevention services available, to capitalize fully on this opportunity, all public and private child-serving agencies in the state will need to work together to support a system that allows for family preservation and for children in foster care to be cared for in settings that best meet their needs.

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Georgia Health Policy Center
55 Park Place NE, 8th floor • Atlanta, GA 30303
404.413.0075 (phone) • 404.413.0316 (fax)
gacoeonline.gsu.edu