

## Overview of Family First Prevention Services Act (FFPSA)

**Marymichael Smrdeli:** Hello, welcome to the Judicial Council's webinar series on juvenile law. Today we are going to be talking about the Families First Preservation Services Act, which is part of, which was part of the Trump administration's budget in February of 2017, which has different implementation dates for all the states around the nation. We have with us Angie Schwartz today, who will be talking about the facts.

**Angie Schwartz:** Hello. Thanks Marymichael. I'm Angie Schwartz. I'm the policy director at the Alliance for Children's Rights and I'm just going to jump right in with an overview of Families First and walk you through all the various provisions of the law.

The law really had two main objectives. It was both focused on expanding Title IV-E. So, Title IV-E is the provision of the Social Security Act that governs the payment of foster, or the federal government's participation in foster care benefits. And so, it's how we are able to get funding from the federal government to offset some of the costs of our foster care maintenance payment program in addition to covering some of the admin and training costs associated with our foster care program. And, this was an expansion of the Title IV-E program so that it doesn't just offset the cost of those maintenance payments, but also pays for prevention services in some instances.

And, the other goal of the Families First Act was to restrict the number of youth in congregate care settings, or group home settings. And so, to limit when federal funds can be used to pay for congregate care or group home placements. So, we'll talk about both of those two main provisions of the Act.

And then, I also have a section at the very end that goes over some of the other provisions of the Act because there's a bunch of other stuff thrown into the bill as well that go above and beyond the prevention and the restrictions on the group homes. But really, the two main purposes were prevention and limiting how federal funds can be used to pay for group homes.

It's important to note before we start because it explains a lot of the reasons the bill is the way it is. But, it had to be done in a budget neutral manner, meaning that the federal government didn't want to actually be paying any more than they were paying prior to this legislation passing. And actually if you look at the CBO, which is the Congressional Budget Office, estimate of how much this bill is going to cost the federal government for the first 10 years, it saves them money. So, they're banking on this set of laws actually reducing the amount of federal funds flowing to states for their child welfare systems.

Can achieve those savings in two different ways. One through those limitations on congregate care. Cause right now there's really nothing in federal law that says when you can claim federal funds for a congregate care or group home placement, so all of the children that are in a congregate care placement, if they're federally eligible, then the federal government is paying for a portion of that placement at whatever rate that the state has decided to pay for that placement.

As a result of Family First and once the bill is fully implemented, the federal government will *only* pay for children that are in qualified residential treatment settings. And so that achieves a significant amount of savings estimated to be \$641 million for the federal government.

And then the other way that they actually achieved that savings is the Adoption Assistance Program was set to delink from the old AFDC program. So, the way that children are eligible for federal foster care benefits in the first place has to do with whether or not they meet the 1996 welfare rules that were in effect in their state back in 1996 when Congress got rid of that old welfare program, the AFDC program. And so, children coming into foster care have to meet that income test based on this 1996 standard in order to receive support from the federal government *while* they're in foster care. But, increasingly we've been delinking the AAP program from that set of rules, meaning when they're adopted out of foster care, starting with the older kids and then progressively, it's been moving down towards the younger kids, 100% of kids would be eligible for the federal support through the Adoption Assistance Program.

And so, it's called the delink, we haven't fully achieved the delink, we hadn't achieved it yet. The last sub, sub, or ..., sorry, *cohort* of kids was set to be delinked back in 2018 when this legislation passed. In fact, the delink had already occurred, and the federal government pulled it back.

And so, what this law did is say “You thought you were going to start getting 100% federal dollars for your adoption assistance program inclusive of the zero to three-year-olds, but just kidding! The zero to three-year-olds are still going to be linked to those old AFDC rules.” And, of course, that's the most expensive group of kids because they would get adoption assistance all the way until they turn 18. And now whether or not the federal government is paying for a portion of that adoption assistance still is based on this 1996 income rules for those kids. That's a really long explanation, but that's where the savings (*laughs*) is projected to come from.

(*Laughs*)

And, it does help to explain some of the reasons that Family First is sort of written the way it is. To some, it can be a little bit of a head-scratcher.

Alright, so just do a little bit of level setting. In addition to, sort of, explaining that budget neutral piece, I think it's also important to, sort of, look at the word “prevention” because prevention is thrown around a lot these days. And, I think, it's often means different things to different people. When I say “prevention,” and, I think, generally what the perception of the word prevention is, is that we're doing something to *prevent* abuse and neglect and exploitation from occurring in the first place, that the goal of a preventive program is to prevent the abuse itself, so that children never come to the attention of the child welfare system.

But prevention has become, sort of, this catch-all phrase. And in the context of Family First, what prevention is referring to, and this is explicit in the wording of the statute, is preventing entries into foster care. And, sort of, the ways the prevention funding is conceived of is that states cannot start to get prevention dollars as a result of Family First until the child's a candidate for foster care. So, it's lost if the abuse and neglect has occurred, it's much more, you know, downstream, upstream, I'm not sure which way you go in the stream, but it's after that abuse and neglect has occurred. So, it's really preventing the entry into foster care as opposed to preventing the abuse and neglect from occurring in the first place.

The other thing that was talked about a lot when Family First was still a bill and just a proposal was that we have to open up IV-E for prevention services because there's no other federal funding to pay for prevention. And, that's also not *really* true. So, if you look at how child welfare spending, how the federal government contributes to child welfare spending, and these are national numbers and not California specific numbers, but if you look at it, IV-E, about half comes from Title IV-E. So, about half of the dollars that we use for our child welfare system, comes from the foster, from the IV-E payments.

But, the other half a funding that we use for child welfare comes from all of these other sources, it comes from the TANF dollars, it comes from Medicaid, SSBG stands for the Social Security Block Grant, Title IV-B is another provision of the Social Security Act that is directed specifically at kids in foster care but it does cover some prevention activities, and then there's other federal funds that are also directed towards child welfare.

And, that other half of the pie, the half of the pie that's not the Title IV-E half, all of those funds can be used for a variety of prevention services. I think the problem with the, the pie in general, if you want to talk about what the problem with child welfare spending is, is that most of these sources of funds are shrinking. So, Title IV-E is shrinking because of that AFDC rule that I was just talking about, fewer kids are federally eligible every year. TANF is shrinking because it's a block grant, and it generally doesn't keep track with inflation. So, every year states get less and less TANF dollars. SSBG, also a block grant, also shrinking every year. Title IV-B, also blocked, also shrinks every year. And so, there isn't an additional infusion of support into our child welfare system, but it isn't entirely accurate to say that there's no federal dollars that can be used for prevention, it's just that we're generally drawing from a shrinking pot of federal dollars, IV-E or not, all of it is shrinking. And so, I think that's the problem as well that needs to be part of the conversation but wasn't necessarily part of this conversation.

So, at that level setting, let's actually dive into the Act itself and talk about prevention as defined by the Families First Prevention Services Act. So, prevention under Families First, and again, when we're talking about this, we're talking about when can states claim federal dollars to support these activities. Of course, states can do much more than this with their own state only dollars; they can do whatever they want paying for it with their own state dollars. But, this is when you can claim federal dollars in order to offset the cost of these activities.

So, for under the federal law, you can now get prevention funds in three different categories, you can get it from mental health services, substance abuse prevention, or in-home parent skills-based programs. And, those are the words that are used in the statute itself. And, those prevention services can be given for up to 12 months. Although the federal guidance has said that you can just extend it for an additional 12 months, so there doesn't seem to be a hard-and-fast limitation on how long the prevention services can actually be provided. It's just, sort of, doled out in 12-month increments. So, it's those three categories: substance abuse, mental health, mental health, and in-home parent skills-based programs.

And then, there are additional requirements beyond that. So, it's not any mental health program; it's not any substance abuse program; it's not any in-home parent skills-based program. In fact, they have to meet an evidence-based standard.

And, 50% of the funds that the state wants to get supported with federal dollars or claim federal dollars for have to go towards "well-supported" programs. And, this is all defined in the statute. So, you can actually just read the Families First Act and, there's a whole bunch of language in there on what is a well-supported program, what's a supported program, and what the promising practice. And, it's only for programs, mental health programs, substance abuse programs, and parenting training programs that fall into one of those three categories of being well-supported, supported, or promising, that you can draw down federal funds in order support those activities. And, like I said, for every dollar that you want to spend on a supported or a promising program, you have to have already spent a dollar on a well-supported program. So, before you can start claiming any dollars under Family First, you have to identify some well supported programs in order to be able to start utilizing the provisions under Families First.

Casey Family Programs actually did a survey of all the programs across the country in the areas of mental health, substance abuse, and parenting skills and prevention and treatment services. And, they found that there's not a lot of well-supported programs at this point. There's 28 mental health service programs, 4 substance abuse prevention and treatment service programs or parenting skills training and education programs, and 3 individual counseling programs across the country that have been identified as well-supported.

And, a further caveat that those are not all necessarily going to be included on the list of things that the federal government or the Administration of Children and Family Services, who's responsible for implementation of Family First, they're not necessarily going to say that all of those programs meet *their* well-supported standards. So, essentially what we're waiting for is for the Administration to release their list of programs that meet the well-supported, the supported, and the promising practice standards, so that states can sort of say, "Do we offer those programs? If we don't offer those programs, how can we develop those programs so that we can start utilizing some of these federal funds to support these kids and families?"

The preliminary list that they list, that they've put out already, has far fewer well-supported programs than the numbers even listed here. I think there were only 11 well supported programs

across all three categories in the list that's come out to date, but we're waiting for additional information, which we would expect any day now.

So, that's how the implication for the child welfare system, of course, is that Family First is not necessarily enabling our child welfare systems to draw down federal funds for a broad range of programs. We have to think about, it, if you're having the conversation about implementation of Family First, it's within that more narrow subset of mental health, substance abuse, and parenting programs that meet a well-supported, a supported or promising practice as identified by the federal government. And really having to make sure we have those well supported programs first and foremost since you can't access the dollars for the supported or promising practices until you've spent some money on the well-supported programs. So, that's the first, thing to be aware of that we're going to be up against as we start to work out implementing this here in California.

Then, beyond what you can offer, there's also who you can offer it to, right? So, we just covered the what, now let's talk about the who. Who can actually receive these prevention services?

I should have put these in a different order, so it's youth in foster care who are pregnant and parenting, so those are not any pregnant and parenting youth, it's only the youth in foster care who are pregnant and parenting. What's missing from this list, but we're going to talk about in addition, is also youth that are in foster care that are placed in a residential treatment program with a parent. That's actually completely different section of the law and it's not really governed by these well-supported, supported, and promising practice standards. But it's a different kind of prevention program, which is basically being able to be in residential treatment with your parents, so we'll talk about that.

So, those are the two categories that apply to kids *in* foster care. Foster youth with a parent in a residential treatment program, foster youth *in* foster care who are pregnant and parenting, they can receive the support of prevention services. And, for the pregnant and parenting youth, the prevention services they can receive are the mental health services, the substance abuse services, and the parenting classes. Beyond that, you have to be *out* of foster care.

Remember, when we were talking at the beginning, prevention under the Family First Act is really about preventing that foster care entry. And so, for the vast majority of kids that are benefited by Family First and their families, it's those who are *candidates* for foster care, so they haven't come into foster care. Or it's the parent or the kin caregiver of a child who is the candidate for foster care. And then, it's regardless of that 1996 income test. So, what that means is if we identify a young person as being a candidate for foster care and we identify a mental health, a substance abuse, or a parenting class that meets one of those evidence standards, we're able to draw down federal funds to support providing that program to that youth regardless of whether or not they meet the 1996 standards. So, they would get that support no matter what. Now, if they come into foster care, then we would apply that 1996 test to see if the federal government continues to support them while they're in foster care. But while they're not in foster

care and benefiting from these prevention services, it's not linked to that 1996 AFDC income test.

Okay, so focusing a little bit on the pregnant and parenting foster youth, and again this isn't for pregnant parenting needs outside of foster care, they have to be in foster care. The prevention services that are being provided have to be listed in the youth's case plan; it has to list the programs or services, specifically, that they're going to be provided. And, in order to help the young person prepare for parenting in the case of a pregnant youth, or so that they're able to successfully parent in the case of a young person who already has their child and is parenting. And then, it also has to describe the foster care prevention strategy for that child; so, the goal is for that child to avoid ever being coming into the foster care system. So that all of those things have to be outlined in the prevention plan. And then, of course, whatever you're providing to the young person has to be in those three categories, mental health, substance abuse or parenting classes. And then, those evidence standards also apply to providing support to these young people.

Okay, so then beyond the pregnant parenting foster youth, the other young people that can be aided through the law are those that are candidates for foster care. So, that's identified in the statute as being a child who has identified in a prevention plan as being at imminent risk of entering foster care. We already have a notion of candidacy that's currently in statute and there's actually quite a bit of federal guidance that has been written about it. And, it's confusing because the guidance that ACF released with, with regard to Family First, says that all those questions and answers that they've released to define candidates don't apply to candidates under the Family First Act, but they haven't *otherwise* defined candidates under the Family First Act. And so, all we're left with is what's in statute, and what's in statute is that the child has to be at *imminent* risk of entering foster care. And so, I think the question for states as they go to implement this law is what does that mean? What is imminent risk of entering foster care? And how do you want to sort of, structure that definition recognizing that we don't have any, sort of, guidance to fall back on that gives states any political cover in that definition? So, I think a lot of people are scratching their heads and wishing that the federal government would actually provide more guidance, not less guidance, because it's, kind of, confusing at this point exactly what they mean by candidate. But, what we have is what the statute says and that's imminent risk.

Okay, so when I look at imminent risk and I sort of look at this pyramid of children that come into foster care, it seems like the imminent risk kids is not the kids that are just referred for an investigation. Because most of those are substantiated out, are not substantiated. And so, the vast majority of those kids don't have any further involvement, so it's probably not the 7.4 million referrals that happen at the, at the, these are national numbers. And, it's probably not the 3.5 million children who actually have substantiations and are referred for or that are actually referred for screenings and investigations. And only 19% of those actually have substantiation. So, there's again, a much larger number of kids who are investigated. You look at it, and then some of them are substantiated, even in that lighter blue category, many of them are not substantiated. You have 1.3 million children that receive services, and the imminent risk standard

is probably somewhere in there. So, it's not the 273,000 that actually enter foster care every year because they don't qualify because they come into foster care, they're no longer candidates, they *are* foster youth. It's somewhere in that 1.3 number who are candidates, and then who also need mental health, substance abuse, or parenting classes, and you also have a supported, well-supported, or promising practice to offer that family; that's, sort of, the group of kids that Family First is capturing who previously were not eligible for federal support in providing services to those families.

So, we already talked about this implication, and it's really just making sure that we're structuring programs, sort of, with the awareness that it's a, it's a narrower set of kids that we're targeting.

Now, where can the child be living when those prevention services are being provided? So, for the candidates, they can be living in the home of a parent, and that seems like what you would want, so, they're being prevented from entering foster care because they're able to stay safely in the home of a parent. So, keep in mind that the candidate definition is imminent risk of foster care, right? And so, a lot of these kids are going to have substantiations. A lot of these kids are not going to be safe in the home of a parent, and so federal law also says *or* you can offer the prevention services in the home of a kin caregiver until the child can safely reunify with that parent *or* you can offer them in the home of the kin caregiver who that child will live, will live with permanently.

That last one gives me a little bit of a pause in terms of due process and the constitutional rights of parents and the constitutional rights of that child, because remember these are kids that never came into foster care. So, they were never assigned an attorney, there were no reasonable efforts findings, they never came to court, there's no judicial oversight. And yet the law is saying that they can have the prevention plan be the *permanent* home of someone other than the parent. And so, I think that that is something that states really need to look at and think about and make sure that you're building in protections that protect that constitutional right of that parent and that child and make sure that those reasonable efforts are still having to be made.

The last group of kids I mentioned before are those that can be with a parent that's in a licensed residential treatment facility. And there, it's kids that are in foster care, so it's kids that have come into foster care and then their placement is with the parent in a residential treatment facility. I think there are additional implementation questions that states are going to have to answer around the licensing rules for those residential treatment facilities since it is a foster care placement. And so, I think some of that has to be worked out because you've got a child who's in foster care and so care, custody, and control usually would be transferred to the foster parent. In this case, the child's living with the parent, and so you have to figure out who care, custody, and control is being transferred to and how that facility is going to be licensed.

Okay. So, we already have a notion in federal law that's been there since the 80s of the ability to sort of go temporarily into the home of a relative and avoid a foster care placement, and it's called a voluntary placement agreement (VPA). And it's been there a long time. States can use

voluntary placement agreements. They are written agreements that are binding on the parties and it's between the state and then, the parent or the guardian of the young person and it specifies the legal status of the child, the rights and obligations of that parent who's seeking to reunify with their child, and the rights and obligations of the agency while the child is in that voluntary placement. And so, VPAs are used in order to keep children safe, temporarily move them out of the home of a parent when the parents agree to get some supports and services, and it makes sure that care, custody, and control has transferred to that child welfare agency. The other thing about VPAs, and you can see on this list here, is they're limited to 180 days. So, something has to happen within the 180 days of a VPA that accounts for what's going to happen to the kid next, either they have to be formally placed into foster care, meaning they get that attorney and they go to court and they have a judge making sure that reasonable efforts have been made *or* they go home to the parent because the VPA is successful and they're able to reunify with the parent *or* they're released for adoption *or* it can be extended for another 180 days through a legal process. And then, beyond that second 180 days, they have to go into foster care or be released for adoption or successfully return to the parent.

And so, you can see the way that the VPAs are structured. And, in California, our law says that if you have a non-custodial arrangement, so you have a child being moved out of a parent's home into somebody else's home who's not their parent without any judicial adjudication happening, you have to use a VPA to do it. Now, I know states and counties in California find all kinds of other ways to do voluntary placements. But, our statute is actually very clear that that's the only legal way to do it, and it makes sense. Because that's how you make sure that you're accounting for the care, custody, and control of the child, that you're protecting the legal rights of the parent, that you're protecting the legal rights of the child, that you have an end date, and that you know, like, if this isn't successful, this is what's going to come next.

VPAs also come with funding. So, for children that are in a VPA with a relative, that relative gets full foster care benefits. So VPAs accomplish, sort of, protecting those due process interests, but also making sure that that child is *fully* supported and funded while they're out of the home of the parent and being cared for in someone else's home. Now, Family First is silent on *all of those things*. It doesn't say how care, custody - so when kids go, are getting the prevention services when they're in a relative's home, it doesn't say it has to be done pursuant to a VPA, it doesn't say it has to be voluntary, it doesn't say how care, custody, and control transfers, it doesn't have a limitation on the amount of time that that can go, in fact, it says it can be permanent, and there's no funding available for the caregiver because the child's outside of foster care and it's not a VPA.

And, I put all this up here just to say this is something states are really going to have to grapple with because those are real due process implications, and it's really about how are we effectively supporting that child while they're in that relative's home? Because it's one thing to get some mental health and some substance abuse services for that parent or probably for the parent who's trying to rehabilitate, but what are we giving to the caregiver and the child during that time as well? And how are we protecting the legal interests of that child?



Because at the end of the day, those prevention services are only focused on mental health, substance abuse, and parenting skills training, and they're not making sure that the kid gets foster care payments, reunification services, case management, the assignment of an attorney who can advocate for the child's best interest, that categorical MediCal eligibility, and all the educational rights and supports that attach to children when they come into foster care and they can't stay safely with a parent.

And it's also not giving the caregiver that monthly financial assistance or the respite care or the child care or the crisis intervention services that they really need. Because really, all that's being funded under Family First is the mental health, the substance...substance abuse and the parenting skills training. So again, I think when looking at implementation questions around this, it's important to sort of say if we can't keep the child safely in the home of a parent, *how* are we making sure that we're protecting *everything* about this case? Not just providing the mental health and substance abuse programs, but also how we're making sure that we're protecting the due process interest of the child and providing for the child's care and support while they're outside of the home.

We sort of just went over that, but this is just a way of different... of talking about, sort of, how different it is when that relative is the prevention plan for the child, which is the column on the left versus when that relative is the foster care placement for that child and it's less funding, it's less services. If that relative, if the prevention plan is the permanent home of a relative and then they end up doing a guardianship or an adoption, there's no guardianship payments and there's no adoption assistance payments because those things only attach if the child actually comes into foster care. So, if you've prevented foster care by utilizing the relative as your prevention strategy that relative can never get adoption assistance or guardianship payments. Same with the educational and training vouchers and the independent living skills programs, all of those things are attached to, sort of, the child coming into foster care. So, that's something else that states really, and especially California who's, sort of, built out this whole compilation of services and supports for our kids in care, and we provide all of those things to our relatives, you really have to think about, sort of, what these two different paths are in terms of the ongoing support and care for the child and for the relative.

And, the reason I focus on this is because 1) over 40% of our kids in foster care are placed with relatives. California does a really good job of identifying relative placements and making sure that those relatives are the foster care placement for a child, which reduces the trauma for the child, it increases placement stability, it's really, it's supposed to be the first choice placement under federal and state law. And California has made it a first-choice placement and that has improved child outcomes and well-being for our kids that do end up having to come into foster care. So, what we know about those relatives is most of them are older and they're living on fixed incomes and they often don't have a lot of training or support and working with kids that have experienced real abuse and neglect, which is what these kids are. And so, all of those things

that we bring to bear to support those families is super, super critical and increases our ability to maintain that placement stability and support those kids.

Because for the kids, the kinship placements that fall into these prevention plans where we're preventing foster care utilizing the relative, essentially what we're telling them to do is go get TANF. And TANF is not really a source of support that supports, it's not really an adequate source of support for one child and especially if you've got a relative taking in more than one child because the TANF grant goes down with every child that's added to the home. And so, in all 50 states, the TANF grant is less than 50% of poverty, it's often way less than 50% of poverty once you take in multiple children, and that's not true of the foster care rate, which is what you get to support the child if they come into foster care. Then, you're getting something that's much closer to actually meeting the needs of the young person or at least approaching the poverty level. So, the implications when you're looking at how to implement this and thinking about what this law means practically, I think it means for kids that can stay safely in the home of a parent, it gives an opportunity to start providing some mental health services, some substance abuse treatment, some parenting classes, and starting to build up a broad range of programs that meet a well-supported and supported or a promising practice in order to support families and keep them together and never have the child have to leave that home. And that is only a good thing. But for kids that can't stay safely in that, in the home, I think that Families First offers as many pitfalls as it does opportunities. And that states have to be really careful in designing what that looks like so that they're protecting those due process interests of the child and of the caregiver and they're making sure that that child and caregiver are actually fully supported because probably what they need is more than mental health, substance abuse, or parenting classes.

So, what I would love to see happen is that you can use VPA's and use voluntary placements in conjunction with prevention services to the parent so that you can have the child go into that relative's home utilizing the VPA, which protects against all of those things that I just talked about and ensures the relative is provided that financial support, and then still be using the prevention dollars to support the parent while they get mental health, substance abuse, or parenting classes because that would be a win-win situation. And so, I think one question we need to ask as we go about implementing this is, is that a possibility? Can we do that?

Okay, so a few other requirements that states have to meet in order to claim, before they're allowed to claim federal funding for these prevention services. First, they have to do case level outcome reporting. So, for every child that receive some of these prevention services, the state has to report the specific services and programs that were received, the total amount of money that was spent on each service and program, and how long they were provided. And then, they also, for all those children that are identified as candidates, they have to say what that child's placement status is at the end of the year one period and then again within two years of being determined a candidate. So, we're looking both at what was provided, and then what happened to that young person a year later, what happened to that young person two years later. Again, keeping in mind that prevention is that, we're trying, we're trying to prevent the foster care entry.

So, what the feds are focused on here is did that kid ever come into foster care? Or at least within two years, did they come into foster care?

Okay, there's also an MOE, MOE stands for maintenance of effort. So we have to look at, remember that pie chart I showed you at the beginning that shows that there actually is money that we're already spending on prevention? We have to make sure that we continue to spend that level of money on prevention. So, they're going to look at what we're spending right now through our TANF grant and our IV-D grant and our SSBG grant, not all of it, just how much of those different pots of money we're using for prevention right now. And then, we're going to have to continue to provide that level of spending going forward, and we can only claim the federal dollars above and beyond that. So, I don't know what California's TANF, IV-B, or SSBG spending on prevention has been, but the very smart people at the state are working to figure that out right now.

Okay, there's all these other fiscal provisions in there as well. It does fix this home of removal issue. So, for kids that receive prevention services for longer than six months, there's something in Family First that says there's no six-month limit on when you can come into foster care. So, in the old way of doing it, if you did, if you are out of your home for more than six months, there was no federal eligibility for you when you came into foster care, even if you met that income test, you weren't federally eligible cause you've been out of your home, the home that you were removed for, remo-, I'm sorry removed from for more than six months. And so, Family First says if you're receiving prevention services for more than six months outside of your home, that's fine. If you come into foster care, you're still federally eligible based on that 1996 income test but not based on the six-month test of being in your home within the last six months. So, at least all the kids that otherwise would have been federally eligible will still be federally eligible if they end up coming into foster care. Now, many of them won't be federally eligible because they won't meet the income test, but at least we're not losing anybody.

Alright, so there's also restrictions. And this is what I talked about at the beginning. The other way, the way that this bill actually achieves cost savings for the federal government is restricting how states can draw down federal funds to support children in congregate care settings.

So, what it does is it changes the list of valid placements beginning with the third week for which the foster care maintenance are be..., are made on behalf of the child. So, for the first two weeks, the child can be anywhere, and you would claim federal dollars the way you always did. The beginning that third week, it basically says they have to be in a family home or they can be in a QRTP, which stands for Qualified Residential Treatment Program. And then, it defines who can be served by a QRTP, the types of youth that can be served, and the services that have to be provided to that youth through the QRTP.

And so, some of the things that it puts in there, there's lots of stuff put on what the QRTP's have to do, and we're going to go over this in more detail, but it's like nursing staff, clinical staff, trauma, trauma-informed models, post-discharge planning and support. It sets forth how children

have to be assessed for placements in the QRTPs and who's allowed to do those assessments. So, basically after two weeks, child comes into care, they can be anywhere for the first two weeks, you can claim federal funds for the first two weeks. Beyond that, they have to be in a QRTP or a specialized setting for pregnant or parenting youth or a transitional housing program for youth 18 and older or programs providing support services to CSEC youth. So, those are essentially the limits on the types of *residential* programs that you can be in beyond those first two weeks in foster care.

Just a really quick note, the transitional housing programs for youth 18 and older is a little bit of a bummer for California because we do transitional housing for 16- and 17-year old's, and now we're losing our federal funding for those THPP programs. So, that's a bit of a bummer. It's not that we can't still do it; all of the stuff states are allowed to do whatever they want to do, but now they have to do it without the federal funding supporting those programs.

And then, it limits the number of children that can be served in the foster family home to six. And essentially, that's to make sure that states don't do an end run around these congregate care settings by saying they're, now their foster family homes can serve twenty-five kids or whatever. So, they can't do that. So, it can be more than that to allow siblings to live together or to have parenting youth remain with their own children or it, to allow the child have a meaningful relation, because they have a meaning relationship with that family member already or because that family has specialized care skills to care for a child that's got some disabilities. So, there are exceptions to that limitation on six children in a foster family home, but not very many exceptions.

So, the next couple of slides just compare QRTP with our STRTPs because this is what California is going to have to grapple with. Our STRTPs are not going to be able to claim federal dollars unless they meet the provisions of QRTP. So, what is going on right now is we're trying to make sure that the two mesh as much as possible, so that all STRTP's can also be considered QRTPs under the federal law.

That goes to who the, who is eligible, so it's children with serious emotional disturbance under the federal law for QRTP. That's actually where we started in California with STRTPs, we thought we were going to have STRTPs limited to SEDs, kids with SED. And then we quickly realized that that was going to result in kids being over diagnosed and we didn't want that. We didn't want kids to get an SED diagnosis just because that was the only way to qualify them. We realized that there were going to be kids that are going kids that were CSEC youth or affiliated with gangs or another, sort of, who have other kinds of emotional issues or behavioral issues that are going to need the support of an STRTP, but they're not necessarily have that SED diagnosis.

So, we expanded who can be in an STRTP to it be inclusive of SED but not limited to SEDs, and so we're going to have to figure out that when we go to implement Family First and see if those other categories of youth that we have that are not necessarily SED, how those are going to fit, and whether or not they're going to qualify for the federal funds.

The QRTP program requires licensed or registered nursing staff and other licensed clinical staff to be available 24 hours a day, seven days a week. This is something California talked about quite a bit with them and we asked them not to use the word “nursing” because that’s a specific thing, especially in California with the nurses’ union. Nursing means nursing. And our SRTPs were not designed to be that clinical. And so, while all of the staff, their staff has to have people that have therapeutic training and supports, it’s not necessarily nursing staff that’s available 24/7. So again, this is another area where I think there’s some concern and folks are looking at like what’s that going to mean in terms of implementation and how can we have nursing staff *available* 24 hours, 7 days a week even if they’re not on site 24 hours, 7 days a week. So those are some of the questions that are being asked.

So, in terms of the timelines, so the assessment test for QRTPs, you have to have the child or the youth assessed within 30 days after placement is made or federal funding is cut off. For the STRTPs, it’s 72 hours of an emergency placement, then the young person has to meet with a licensed mental health professional, and then they have to make a determination that the child needs that level of supervision. And then within *30 days* of that placement, then you have to have an IPC, the inner, inner place, wait, inter-placing committee, interstate placing committee? That’s what it is, interstate, inter-agency placing, placement committee, has to make a determination with recommendations for the C-, CFT as to whether or not the STRTP placement is appropriate. So, it’s not super-different. I think the question for us is who that qualified individual is.

So, that gets to the next slide. So, QRTP says the qualified individual is a trained professional or a licensed clinician who is *not* an employee of the state agency and *not* connected to or affiliated with the placement setting. So, we read that and we were all scratching our heads, like, who is that person? Like, who would be doing those assessments? Because most of the people that do our assessments do work for the county or are involved in the system in some way. Those are the professionals that are trained to work with these young people. I think one question is whether or not the CFT itself, because the way that we’ve structured our decision-making about STRTP and the appropriateness, is it has to go to the IPC and it has to have the input of the CFT, so it isn’t, it isn’t one individual in California that’s making the decision about the appropriateness of an STRTP placement for a young person. And, because we have sort of this broader group of people making a decision and really looking at the youth in their totality, the question is whether or not that...that...that would meet the standard. And, the answer is no one knows yet and these are the kinds of things that we’re going to have to go back and forth to the feds about.

In terms of court oversight, within 60 days of the QRTP placement, the juvenile court has to do all sorts of things. They have to consider an assessment by that qualified individual. They have to determine whether or not the child’s needs can be made...met in that placement. They have to approve or disapprove the placement. And so, it actually has a real role for the court for these QRTP placements and that’s obviously different than what exists in our law, because in our law for the STRTP placements, it’s really being documented by the agency. And then, the ongoing being able to use that STRTP placement for longer than six months, has to be signed off on by

the county welfare director or one of their deputies. But it's not something that gets approved or disapproved by the court itself. And so, again the way that the federal QRTPs are structured is you're actually having to go to the court to approve that decision to make that placement. And they examine, sort of, all of those things. So that again, would be a shift, and so I think there's exploration going on right now on how Family First is going, or how California is going to implement Cali-, Family First in that regard. And then, the last thing is the post-discharge support, also pretty different from what we have in our law. Because the federal law says QRTPs have to provide aftercare for at least six months and that's not how we've structured STRTPs in California. The idea is that they would arrange or assist with continuity of care, but there's no hard deadline on how long they have to provide services and supports. And so, certainly, I don't think the intention was that they're going to provide those supports necessarily for six months in all cases. It was designed to be a bit more flexible. And so, I think that's another area where California needs to sort out how we're going to implement it given that the federal law says it has to be at least six months of that post discharge planning.

So, I think there's a lot to sort out around STRTPs versus QRTPs in making them mesh together. One particular population that a lot of us are thinking about is our crossover youth. California does a lot to support youth in STRTPs that have crossed over. It's actually the least restrictive placement in many ways for some of our probation youth and it's enabled us not to have them in secure facilities or camps and ranches nearly as much. And so, I think there's a big question on what happens to the crossover youth. But, as I just walked through that chart, I think there's a lot of other big questions (*laughs*) as well and a lot that has to be sorted out in terms of who, who qualifies for what.

The other thing that I'll just note before we, sort of, go to the additional provisions, is that there wasn't a lot of Family First directed at recruiting and retaining families for these youth. So, there's restrictions on the group homes, but there is not a corresponding investment that allows states to, sort of, be innovative in recruiting and retaining more families. And, of course, we've been doing this work in California for quite a while, we've had CCR now for four years. The state... \$130 million is not right anymore, it's \$150 million, has been put forward for foster parent recruitment and retention. So, we've really invested state-only dollars to make sure that as we're limiting who can be in a congregate care setting, that we're also investing in finding families and supporting families for those young people. Family First has a one-time \$8 million payment for parent, foster parent recruitment and retention, but that's across all 50 states. So, fifty states are dividing up \$8 million dollars. California has invested \$150 million dollars *just* in the state. So, I think there as well you can, kind of, see that there's going to have to be some thoughtfulness by states and some state only investments about how you're really going to provide family supports for these kids when there's no longer federal support for the congregate care facilities for them.

Alright, so there's a bunch of other stuff in Family First as well.

I'm excited about this provision. It allows states to receive 50% matching funds for kin navigator programs. So, we've never had several support for our kin navigator programs before. You have to find a kin navigator program that meets a promising, supported, or well-supported practice. At this point, none of those exist anywhere in the country, so there's work to be done to bring kin navigator programs up to that evidence level, but that work is underway. And so, once their kin navigator programs that meet a supported, a well-supported, or promising practice, we'll be able to start implementing those in California and drawing down federal funds to support those programs. And then, those services would be available to any child that needs them without having to prove that they would be, otherwise be IV-E eligible, so that's a really great thing. And, I'm excited to see when we start having some of those programs crop up that meet that evidence standard.

The family reunification timeframe that use-, that used to exist in Title IV-B were eliminated, so you can get indefinite supports for children while they're in foster care. There's no time limit on how long you can spend IV-B dollars on behalf of a child in foster care while they're trying to be reunified. And then, it also allows states to start using those IV-B funds for up to 15 months of post reunification services. The, my understanding is because this is IV-B and Family First didn't actually increase the amount of IV-B, this doesn't change things dramatically cause it doesn't give us any new money to play with. It just says that we can utilize the money that we already had differently, so we can utilize it for kids indefinitely while they're in care and attempting to reunify and we can provide up to 15 months of post-reunification services. But, it's the same pot of money, and the time limits that exist in federal law *otherwise* by which we get our adoption incentive payments and by which we get dinged by the feds for not moving to permanency quickly enough, those all still continue to exist. And so, we still have the federal clock ticking with regard to trying to move kids within 12 or 24 months to adoption. But, if we want to use our IV-B dollars to serve those kids for the whole 24 months, we can. And then, if we want to use our IV-B dollars to support that child after they've reunified, we can. California uses 100% of their IV-B dollars every year, so I think that, I'm not sure where this gets us, but there you go. It is what it is.

Okay. There's also a requirement that by 2027, so a little ways away here, all the states need to utilize the NEICE - electronic interstate case processing system. So, the idea is that everyone's going to move to a common system so that it's easier to process kids that have to be placed across state lines. I think that can only be a good thing because some of the reasons there's so much delay in our ICPC cases right now is because you've got so many different systems talking to one another. There's also money being available...made available to states to help them join into that network. California is already moving in that direction, so I think we're ahead of the timelines listed here.

So, there's also regional partnership grants, so it changes, it reworks the provisions of our existing regional partnership grants, which are currently authorized under Title IV-B in order to more clearly target the programs at preventing children, foster care placements of children who parents have substance abuse disorders, and add related outcome measures. So, it's really trying

to focus on the substance abuse disorders, again, part of what Family First was born out of was a response to the opioid crisis, that's why one of the three prevention services that can be funded under Family First is substance abuse. And so, this is really just trying to target those partnership grants a little bit more as well.

It changed the relative home licensing standards, well, it didn't really change them. What it did is require the federal government to issue some model licensing standards, and the idea was many states have licensing standards that end up, kind of, screening out relatives. Because lots of times, our relatives, their demographic background, where they live, the homes that they have, wouldn't necessarily meet some of these, it's not a health and safety standards they don't meet, but they might not have rooms that are certain square footage. They might have, you know, not enough bedrooms or not enough bathrooms or, you know, different states have really bizarre licensing standards, so the idea here was you would release some model licensing standards and say that the states adopt these licensing standards or say in your state plan why you haven't adopted these licensing standards and how your licensing standards are making sure that you're able to recruit and support relatives. And so, we're really trying to think about whether or not we've erected arbitrary barriers to being able to have relatives serving as foster parents. Again, I think California has done a lot of work around this already and a lot of thinking. We've got child-specific approval within our RFA process. We have documented alternative plans and corrective action plans. We have a lot of different ways of working with families, so that it's not a one-size-fits-all approach. And, if there isn't a health and safety concern, the goal is that if it's someone who would be appropriate for that child that we can find some way to get them approved. So, I think California has largely done this work already.

And then, there also has to be a requirement all the states, oh, let's change the slides, so you can see what I'm talking about, have to amend their state plans to describe the steps that the state is taking to compile accurate information on child deaths due to abuse and neglect and also the steps they're taking to develop and implement a comprehensive statewide plan to prevent child abuse and neglect fatalities. And so, it's really just trying to make sure that states have a plan in place and that they can be held accountable to something. So, Family First is not currently in effect in California, at least most of it isn't. There are some pieces of what I just talked about that could be implemented right now, like, the kin navigator piece. If we had any kin navigator programs that met a well-supported, supported, or promising practice, we could start getting federal funds for those programs right now without doing any of the rest of the stuff that I talked about.

So, there are some pieces of Family First that have already started to take effect, but most of them are, are, like, the littler pieces of Family First. So, the things that took effect immediately had to do with establishment of technical assistance office related to the new optional prevention services, those model licensing standards have already been released, but like I said, California has largely already come into conformance with those. There's a bunch of technical and conforming changes that already had to be made, and we already did that last year in AB1930, so



the stuff that already had to happen as part of Family First has already happened. But, none of it's major.

The big stuff that has to happen, like the QRTP, and whether or not you're going to start taking advantage of prevention services and how you're going to do it, the earliest that it could happen was January 2020 for the QRTP provisions. States can start taking advantage of the prevention plans now if they wanted to. I think most states are still trying to figure out what it all means, but the earliest you could be out of compliance is January 2020. So, the earliest that you could actually be dinged for not doing some of the things that are required in the law and for the QRTP for provisions for us is January 2020. And that's because Family First was passed in the middle of our legislative session, and so, the, the timeline for coming into compliance didn't start ticking until this legislative session started, January 1. And so, we have this whole year to sort of pass a bill if we wanted to figure out all this stuff.

And then, we don't have to do that. So, the more important thing is states are allowed to take a two-year delay in implementation in order to really have the time to figure out all of the stuff around QRTPs versus STRTPs, to figure out how we want to amend our state plan, to start providing prevention services, who we're really going to provide prevention services to, how we're going to, you know, protect kids that can't stay safely in their home. Like, there's a lot of stuff that California has to sort out, and it's probably more than a one-year bill. And so, we have the option of taking up to a two-year delay and what that means is that we don't have to start implementing those QRTP pieces until October 2021. So, basically at the end of our legislative cycle that ends in 2021, so we have our two-year legislative cycle that just started, but by the end of that we're going to be able to, we're going to have to start complying with this.

The thing to note is we cannot start taking the prevention dollars for the candidates for foster care, for the pregnant and parenting youth in the mental health, substance abuse, or parenting classes. We can't start drawing down federal funds for any of that until we start complying with the QRTP requirements. So, they're linked to one another. In order to get any of the prevention dollars, we also have to do all the QRTP stuff. And, that's important to know because as I said when I was going through this presentation, there are a lot of big questions about how to make QRTPs and STRTPs fit together so that we don't lose federal funding that we're using right now to support kids that need that level of treatment and services. And so, we have to figure all that out before we can start drawing down any federal funds for the prevention stuff. And, we have to figure out where are the well-supported, supported, and promising practices within the areas of mental health, substance abuse, and parenting classes, and who do we want to offer those things to. So, it's quite a bit of things that we have to figure out in the next couple of years. So, to that and the state has already started trying to figure it out, is already putting...has already doing the work to try to sort out all of these very many questions and there'll be many, many more trainings on this area of law in the coming years as we start to sort out what *our* law is going to look like around Family First.

In the meantime, this is me, and that's my phone number, and that's my email address, and I love answering questions, so feel free to contact me if you have any of those. Thank you.