



Child Welfare: The Road to FFPSA CIP Summit

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casey family programs

THE EVOLUTION OF HOPE

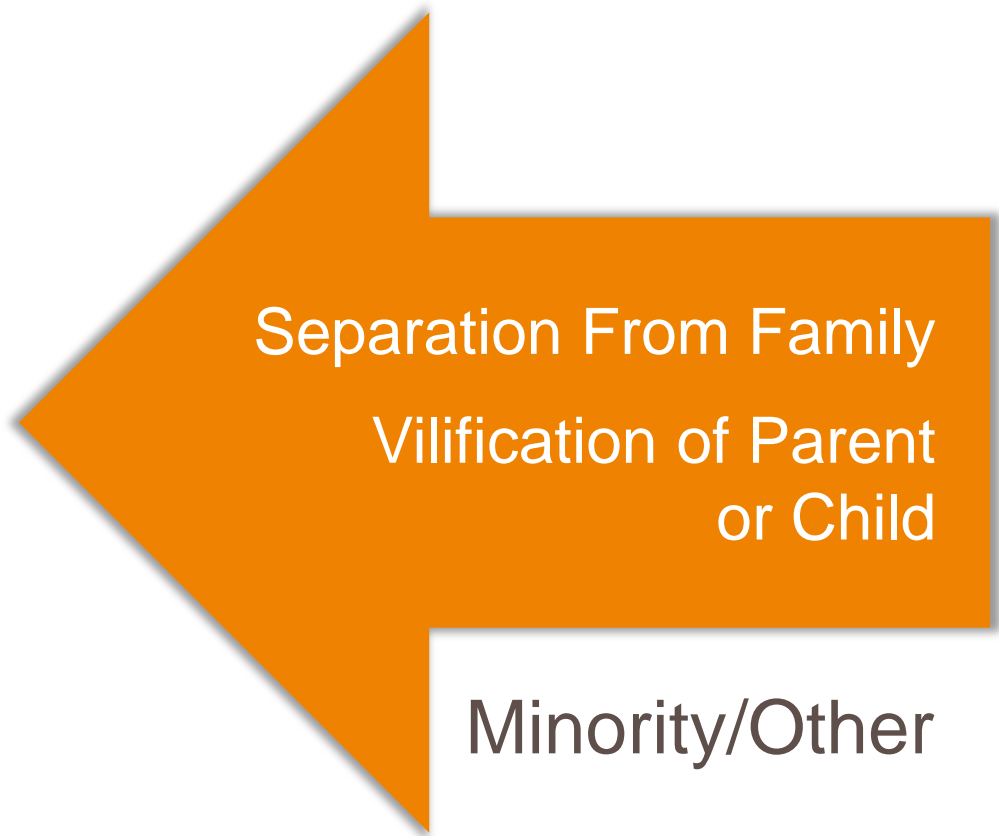
Charting a path into the next 50 years

safe children | strong families | supportive communities

annual all-staff meeting | january 2017 | washington state convention center

Theoretical orientation and historical tensions





Minority/Other



Majority culture

Legal Evolution of Child Welfare

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Constitutional Right to Parent

- **Meyer v. Nebraska** (1923): family as a center of value-formation and value-transmission...the authority of parents to make basic choices
- **Pierce v. Society of Sisters** (1925): children were not "the mere creature[s] of the state"

the autonomy of the family should not be disturbed absent some showing that the parent's conduct places the child's health, safety, or welfare at significant risk of harm

Parental Right is Not Absolute

Prince v. Massachusetts (1944)

- The government has broad authority to regulate the actions and treatment of children.
- Parental authority is not absolute and can be permissibly restricted if doing so is in the interests of a child's welfare.
- Acting to guard the general interest in youth's wellbeing, the state, as *parens patriae*, may restrict the parent's control by requiring school attendance, regulating or prohibiting the child's labor and in many other ways.

When Can You Separate?

Stanley v Illinois (1972):

- The state assumes custody of children only after a hearing is held to determine their parental fitness
- requires proof of negligence to deem them unable to provide primary care.

Social Evolution of Child Welfare

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1800s: Child Rescue



Orphan trains



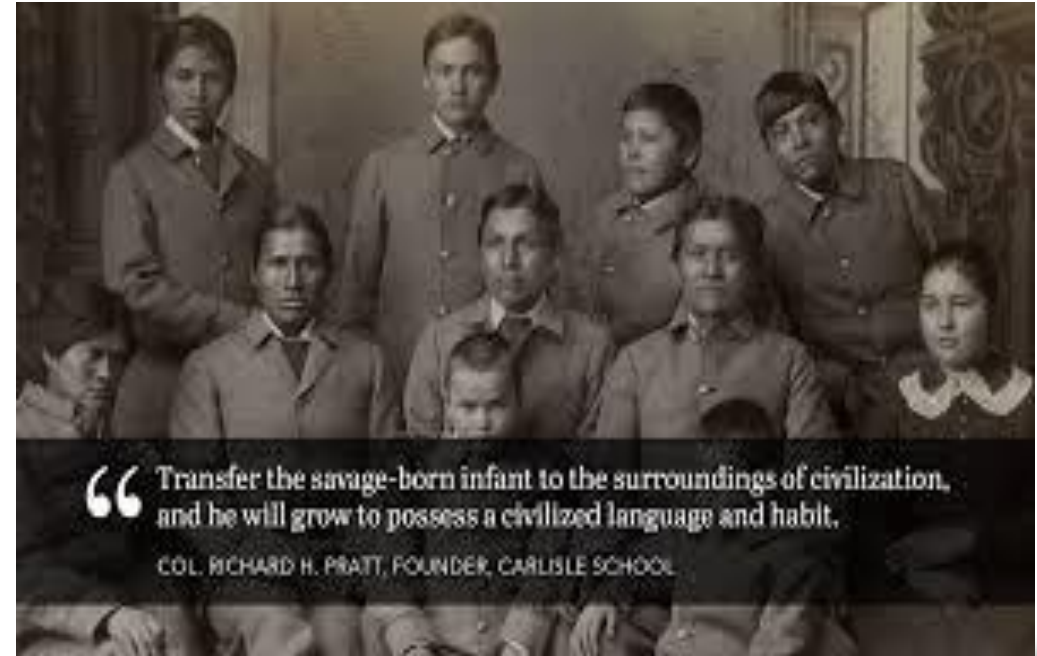
Who were the “orphans”? | When did the practice end?

Orphan trains | who were they?

- Immigrant children
 - Jews
 - Catholics
- Poverty
 - Unemployed or underemployed
- Homeless



Native American Boarding Schools



Pre-cursor to modern day foster care: children belong with their families

MOTHERS' PENSIONS



**OVER 20 STATES
ARE HELPING TO PRESERVE THE HOME**




**BY KEEPING CHILDREN IN SCHOOL
UNTIL QUALIFIED TO WORK**

MOTHERS' PENSIONS.

Give the Mother a chance to bring up her Children in Decent Comfort.

**NATIONAL PENSIONS:
NOT POOR LAW DOLES!**

Hear the Widow tell her Tale:



MRS. KANE, of Moss Side, Manchester, made the following touching appeal at the National Conference of Labour Women, April 28th, 1901:

"I have been so moved by the necessity for pensions for mothers that I first decided to work with Labour men and women solely to help in securing this vitally-needed reform. I am a mother.

I was left a widow with five young children, the eldest of whom was 12½ years of age. The eldest is now 16. I have now two working out of the five.

It was what I went through whilst struggling to keep things going that decided me to give whatever time I could spare to seeking this reform in the interests of sisters who have to fight for life for themselves and their children as I did.

I have had bitter experience of Boards of Guardians. I only wish there were more women on them. If there were, they would understand the needs, especially of women who have to bring up families, and the policy would, I am sure, become more humane and considerate. Oh, the suffering that exists here in places like those in which I live! We need reform in this matter and a line of action which would give women a chance to bring up their families as really befits a people such as we claim to be.

But I have seen so many failures to secure the least real attention that I am sure I do not think we will get any change until the widows themselves band themselves together and march to London the same as the blind, and press their claims. I am ready to take part in such a march. I don't know how I would get through; but we must get at the ears of the authorities somehow. If we did I do not think even Mr. Lloyd George could resent the appeal of the widows' representatives who joined in such an adventure.

Look at the help given now. I had the choice of going out to work or getting 30s. a week to stay at home and mind the children. Thirty shillings a week for four of us and to help the two who were working. When I went out to work myself, my relief was reduced to 18s. Now my health has broken down and I stay at home, I get 27s. If I were a soldier's widow I would get £2 10s. a week, whether I worked or not, and whatever the children earned. I do not complain that widows of men who were lost in the Army should be helped. What I want is a recognition of the fact that the State owes as much to the widows of those in the great industrial army who fall by the way (Hear, hear). The workers serve the State just as much really as do soldiers, and those they leave have claims just as urgent. We must get the weight of public opinion at the back of this demand so that action may be taken not only in the interests of the poor women who are left alone to fight their life's battle, but in the interests of the State." (Cheers.)

Poverty becomes a federal issue



Flemming Rule

“a state plan...may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home. *Assistance will therefore be continued during the time efforts are being made either to improve home conditions or to make arrangements for the child elsewhere.*”

HEW Secretary Flemming, 1961

Key Developments in Federal Child Welfare Legislation

- **1967:** Social Security Amendments of 1967 required every state to provide foster care assistance as part of its AFDC program.
- This law also moved Child Welfare Services Program into a new Title IV-B of the Social Security Act and added a new state plan requirement that agency administering AFDC program must also oversee child welfare services



In other words

States could keep kids in the home and help make the home suitable

- White
- Widows
- Married Couples

States could remove kids and use same money to provide care outside the home

- Black or Indian
- Unmarried
- Religion

Science impact on policy

1962: Dr. C. Henry Kempe “*Child Abuse Syndrome*” or “*Battered Child Syndrome*”

- Developments in medical technology allowed radiologists to see evidence of subdural hematomas and abnormal fractures caused by beatings.
- Awareness of child abuse represented a major shift for the child welfare system. By 1966, every state had passed legislation requiring better reporting and intervention in cases of child abuse
- Child Abuse Prevention & Treatment Act of 1974

Key Developments in Federal Child Welfare Legislation

Child Abuse Prevention and Treatment Act [CAPTA] (1974):

- Requires states to have a system in place to receive and respond to allegations of abuse and neglect
- Sets forth minimum definition of child abuse and neglect
- Provides federal funding to states to be used in support of prevention, assessment, investigation, prosecution and treatment activities related to abuse and neglect
- Identifies federal role in supporting research, evaluation, technical assistance and data collection activities

Key Milestones

1980: Passage of the Adoption Assistance and Child Welfare Act, which intended to address “foster care drift”

1980s: Expenditures for social services repeatedly cut.

1986: Forty-nine states required reporting of neglect, and forty-one states made explicit reference to reporting of emotional or psychological abuse.

Key Milestones

Adoption Assistance and Child Welfare Act (1980):

- Established a new federal policy framework to keep children safely at home and move children to permanency more quickly once in foster care
- Established new Title IV-E of the Social Security Act providing for the first time federal dollars for adoption assistance payments for children with special needs
- Made children eligible for foster care and adoption assistance automatically eligible for Medicaid
- Required that “reasonable efforts” be made to prevent children from entering foster care unnecessarily and to reunite them with their families once they are in care
- Required that children be placed in the “least restrictive, most family-like settings appropriate to their needs”
- Required semi-annual case reviews and a dispositional hearing for children in care at 18 months
- Increased more than five-fold funding for Title IV-B Child Welfare Services

Key Milestones

The 1980s and 1990s:

- **1981:** Congress rejects child welfare block grant but converts Title XX Social Services Program to a block grant
- **1986:** Title IV-E is amended to include new *Independent Living Program* as a capped entitlement to assist youth 16 and older that “age out” of foster care with permanency
- **1991:** Congress establishes the *Family Unification Program* which provided new Section 8 housing assistance for child welfare and housing authorities to administer jointly to keep children with their families and promote family reunification
- **1993:** Title IV-B is amended to create new *Family Preservation and Support Services Program* to strengthen families and keep children safely at home. Program included targeted funding for *Court Improvement Program* to help courts assess their effectiveness in handling foster care and adoption cases.
- **1994:** Legislation enacted that directs HHS to create a new review of state child welfare systems called *Child and Family Service Reviews (CFSRs)*

Key Milestones

The 1990s:

- **1994:** Congress established the *Child Welfare Demonstration Program* that allowed up to 10 states to use child welfare and foster care dollars more flexibly while maintaining core foster care protections
- **1994:** Congress passed *Multiethnic Placement Act* which prohibits child welfare agencies from denying approval of foster or adoptive parents based on “race, color or national origin.”
- **1995:** Congress ultimately rejects House legislation to create a child welfare block grant that eliminates the IV-E foster care entitlement
- **1996:** *Temporary Assistance for Needy Families* (TANF block grant) is created, eliminating AFDC as individual entitlement. While new law wipes out old AFDC eligibility standards for TANF program, it still requires states to based eligibility for IV-E foster care and adoption assistance on AFDC eligibility as of July 16, 1996 (“AFDC look-back”)
- **1996:** Congress passed *Interethnic Placement Act* amending the Multiethnic Placement Act to allow case-by-case considerations of race, ethnicity and culture that are in a child’s best interests

Key Milestones

Adoption and Safe Families Act (1997):

- Focused on keeping children safe, decreasing stays in foster care and reducing the number of children waiting to be adopted
 - Expedited timelines for decision making for children in foster care; required states to initiate termination of parental rights when children had been in care for 15 of the previous 22 months
 - Clarified that nothing in federal law requires a child to remain in or be returned to an unsafe home
 - Further clarified that when return home is not safe, “reasonable efforts” must also be made to place a child for adoption or with a legal guardian
- Attempted to eliminate long-term foster care as a permanent placement
 - Formally recognized kinship care as a permanency option
 - Provided states with adoption incentive payments
 - Specified that the funds provided to states through the Family Preservation and Support Services Program (renamed the *Promoting Safe and Stable Families Program*) would be divided equally between family support, family preservation, time-limited family reunification and adoption promotion services.
 - Required HHS to establish outcomes measures to track state performance in protecting children and report on those results annually

Key Milestones

Fostering Connections to Success and Increasing Adoption Act (2008):

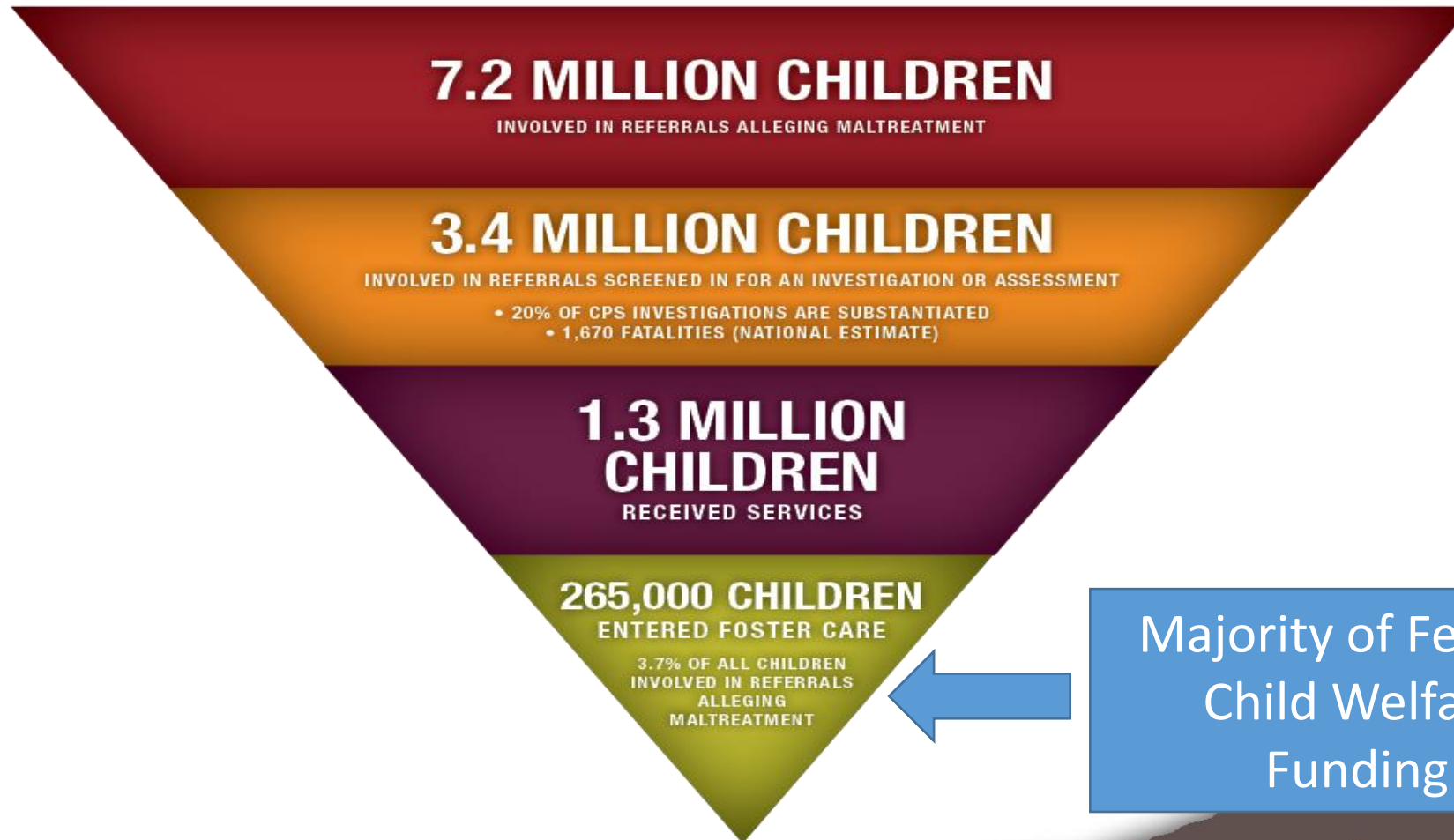
- Intended to improve outcomes for children and youth by promoting permanent families through relative guardianship and adoption and by improving access to education and health care
- Required state child welfare agencies to collaborate with education agencies to keep children in their original schools
- Included a number of provisions to encourage family connections for children in care, including notice to relatives when a child enters care, kinship navigator programs, and new federal support to states to assist with subsidized guardianship payments
- Clarified that states may waive non-safety related licensing standards for relatives on a case-by-case basis
- Required states to make reasonable efforts to place siblings together when they are removed from their homes
- Allows states the option to extend federal IV-E support to youth up to age 21 when those youth meet certain education, training or work requirements.
- Allows federally recognized tribes to apply to receive federal IV-E funds directly for foster care

Key Milestones

Other Recent Legislation:

- **2010:** *Patient Protection and Affordable Care Act* included several provisions specifically directed to children in the child welfare system. Most significantly, beginning in 2014, children who exited foster care at age 18 or older will be eligible to receive Medicaid until age 26
- **2011:** *Child and Family Services Improvement and Innovation Act* which:
 - Continued the Promoting Safe and Stable Families Program and Court Improvement Program
 - Promoted caseworker visits to children in foster care and establishes regional partnership grants to address parental substance use disorders
 - Reinstated federal child welfare demonstration authority, which had lapsed, to encourage system improvement and complement broader efforts to promote child welfare financing reform
- **2013:** *Uninterrupted Scholars Act* which:
 - Provides that child welfare agencies have the responsibility for children's placement and care with direct access to the children's education efforts
 - Allows child welfare agencies to use educational records for research studies to improve educational outcomes for students in foster care
 - Eliminates the need for duplicative notice to parents and the resulting delays in transferring students' educational records

Child Maltreatment Report 2015



Majority of Federal Child Welfare Funding

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.

Questions/Discussion