

The Family First Prevention Services Act:

Requirements, Advocacy Tips & the Road Ahead

Utah Court Improvement Summit
August 12 & 13, 2020

The logo for the National Association of Counsel for Children (NACC) features the acronym "NACC" in white, bold, sans-serif capital letters. The text is centered within a dark blue rectangular box. Below this box is a light blue rectangular box containing the full name of the organization in white, sans-serif text. The entire logo is positioned on the right side of the slide, partially overlapping a large, stylized circular graphic that resembles a road or path curving through the background.

NACC

National Association
of Counsel for Children

Roadmap for Today's Session



- **Background/ History of Legislation**
- **Four Main Themes**
 - *Each tied to specific advocacy strategies*
- **Systemic Advocacy Opportunities**
- **Q &A/ Discussion**

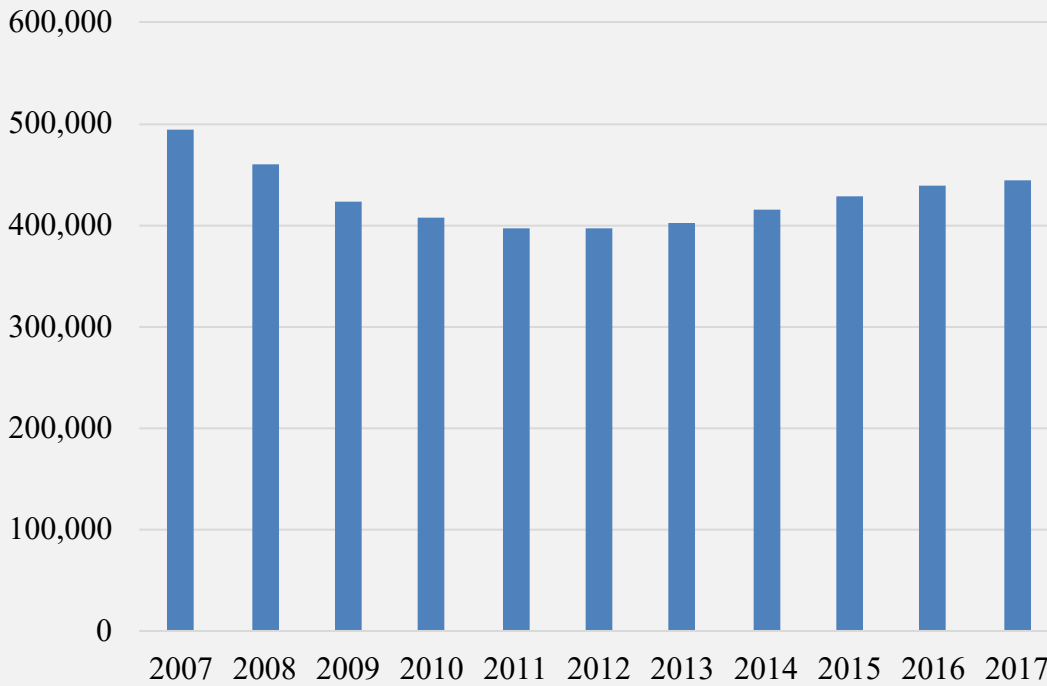
Audience Poll

**How familiar are you with the
Family First Act?**



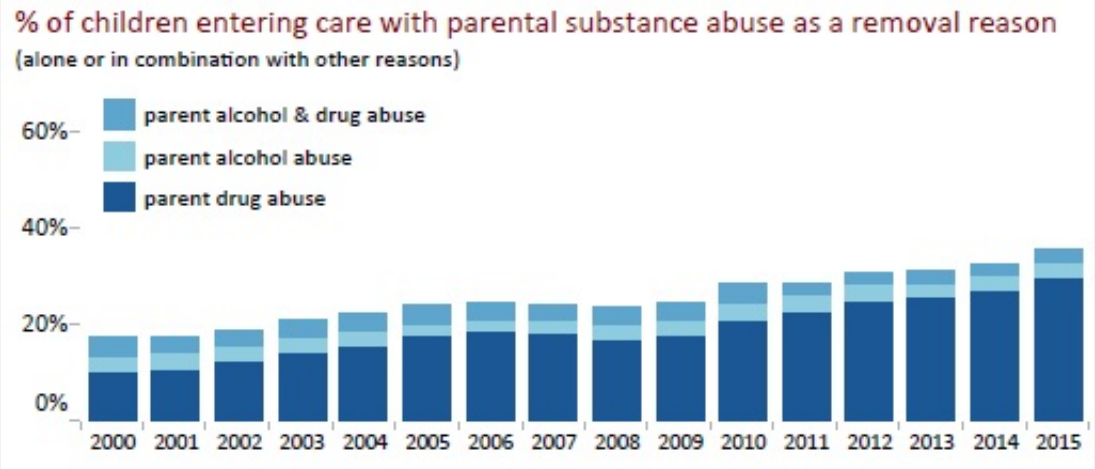
U.S. Child Welfare: Why Family First?



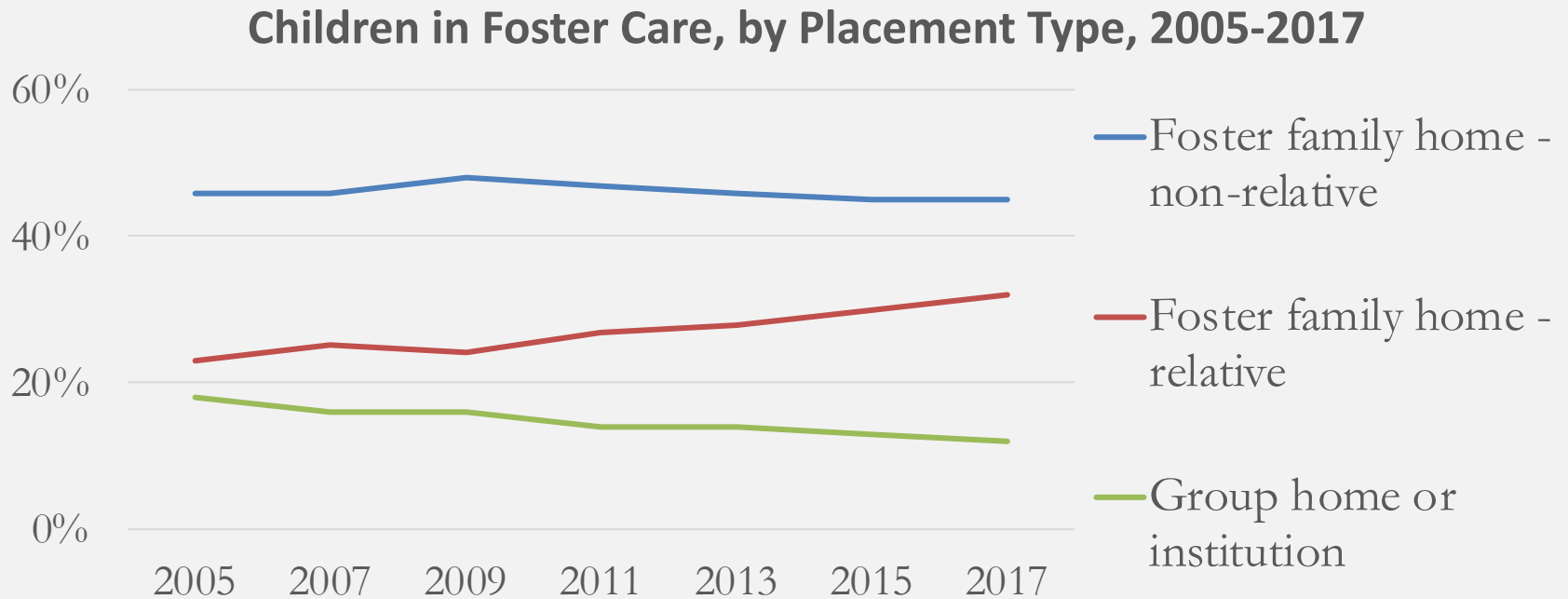


Rising Foster Care Population

Increase SUD as Reason for Entry



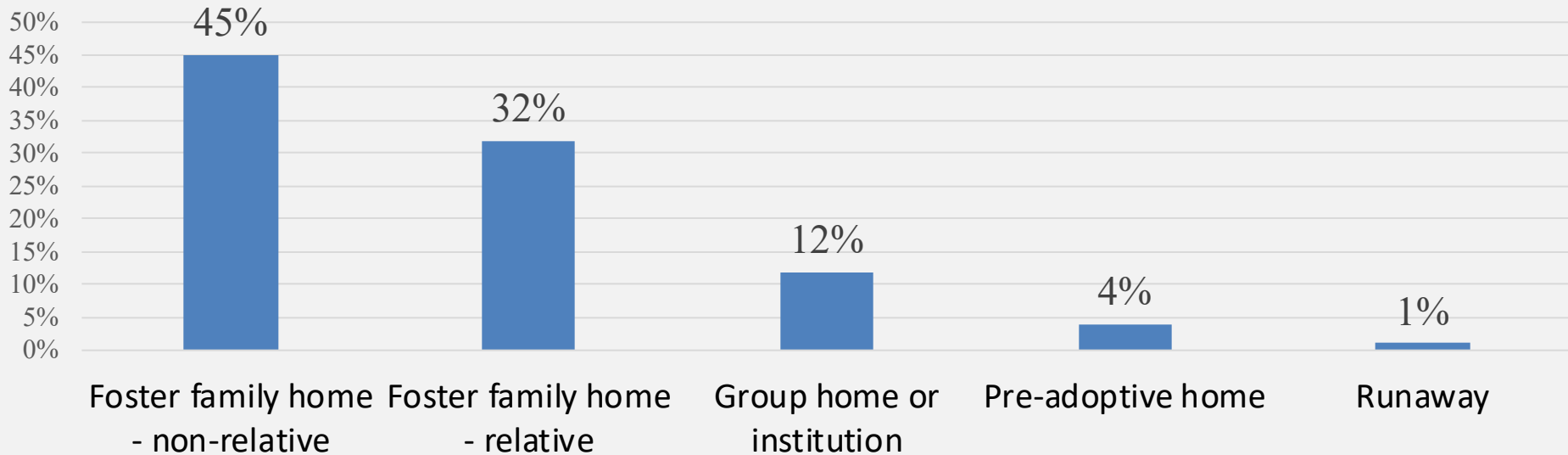
Increased Utilization of Kinship Families...



Source: KIDS COUNT Data Center, Annie E. Casey Foundation

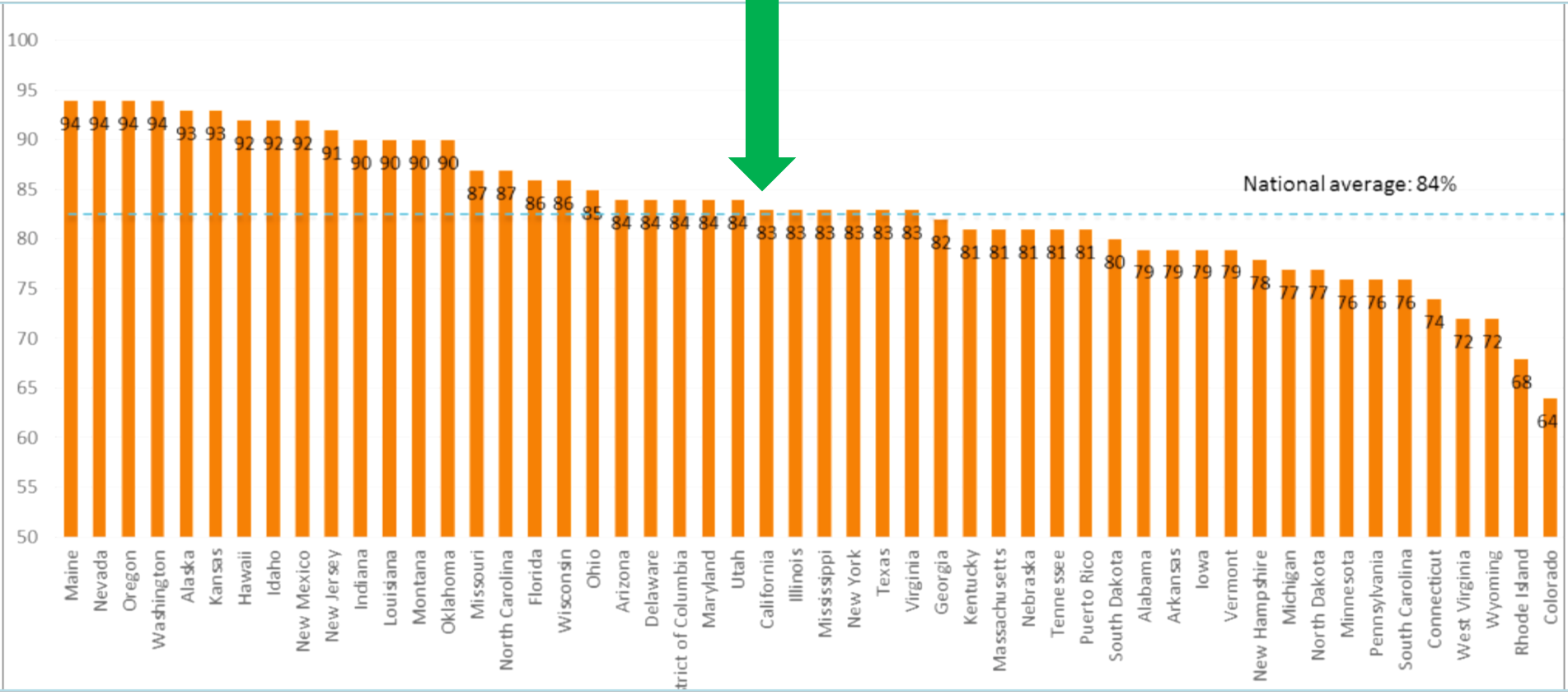
...Yet Overreliance on Institutional Care Persists

Foster Care Placement Settings, FY2017



Source: KIDS COUNT Data Center, Annie E. Casey Foundation

Percentage of children (0-20) in foster care living in a family setting



Source: Annie E. Casey Foundation



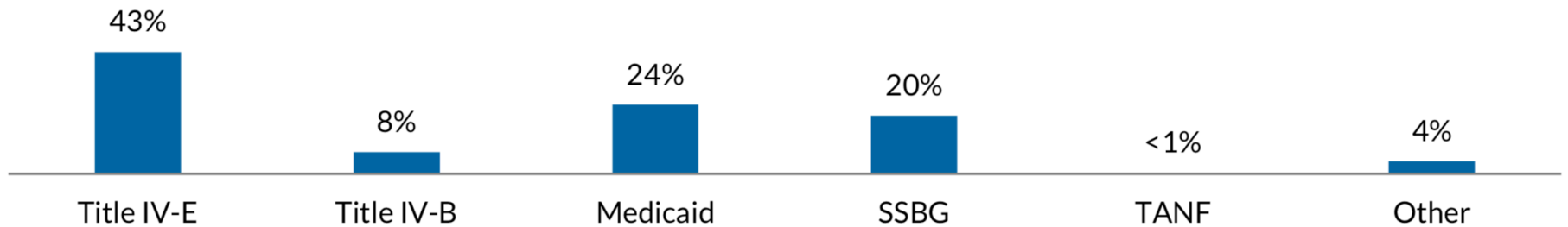
Family First Prevention Services Act
enacted February 9, 2018



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Utah's Child Welfare Financing

Title IV-E is the largest federal funding source for Utah.



Source: Child Trends, Child Welfare Financing SFY16: Utah

Family First's Four Themes:

**Safely Prevent
Unnecessary
Removals**

**Promote Kinship
Involvement**

**Reduce
Overreliance on
Institutional Care**

**Support Transition-
Aged Youth**

Theme 1

**Safely Prevent
Unnecessary
Removals**

New Funding for Prevention Services

Family First offers 50% reimbursement through Title IV-E for eligible services to prevent entry/reentry into foster care:

- **Eligibility:**
 - “Candidates” for foster care
 - Parents and/or relative caregivers
 - Expectant or parenting foster youth
- **Duration:**
 - 12 months (no lifetime limit)
- **No income-test (“de-linked”)** - All children and families eligible, regardless of income



Who is a “Candidate”?

- Child at “imminent risk” of removal who can remain safely at home with services in place
- Formal or informal kinship placements, if there is imminent risk of entering foster care
- Adoptive or guardianship placements at risk of disruption
- Aftercare services for reunified and post-permanency youth



Prevention Services & Treatment



**Mental
Health
Services**



**Substance
Abuse
Treatment**



**Parenting
Skills Training**

Trauma Informed, Evidence-Based, and Provided by a Qualified Clinician

Prevention Services

Mental Health

- Parent-Child Interaction Therapy (WS)
- Trauma-Focused CBT (P)
- Functional Family Therapy (WS)
- Multisystemic Family Therapy (WS)
- Brief Strategic Family Therapy (WS)
- Child-Parent Psychotherapy (P)

Kinship Navigator Programs

- *Pending*

Substance Abuse

- Families Facing the Future (S)
- Methadone Maintenance Therapy (P)
- Motivational Interviewing (WS)

Parenting Skills & Training

- Nurse-Family Partnership (WS)
- Healthy Families America (WS)
- Parents as Teachers (WS)
- Homebuilders (WS)
- SafeCare (S)

P: Promising; S: Supported; WS: Well-supported; NS: Not supported

Family-Based Substance Abuse Treatment

Federal funding may be used to support placement in a licensed, residential family-based substance abuse treatment facility:

- Must be trauma-informed
- Up to 12 months
- Funds became available 10/1/18
- No income test

At least 7 of these in Utah





So What?



Advocate's Opportunities

Advocate for Services to Prevent Removal:

- Move the court for **Reasonable Efforts** findings linked to Family First
 - Educate court about service array
 - Ask for written RE findings
 - Consider the definition of “**candidacy**”
- Request **Fair Hearings**
- Request **supportive services** for expectant/ parenting teen clients
- Cite federal, sub-regulatory **HHS guidance** as persuasive authority (Ex. ACYF-CB-PI-18-09)



Advocate's Opportunities (Cont'd)

Request High-Quality Services:

- Trauma-Informed
- Evidence-Based
- Qualified Clinician
- Citations: Sec. 471(e)(4) and Ex. ACYF-CB-PI-18-09)

Move for Creative Alternatives to Removal/ Reentry:

- ✓ Family-based, residential substance abuse treatment
- ✓ In-home, court-supervised cases
- ✓ Post-reunification services
- ✓ Agency Attorneys educate court about agency's safety assessment tool:



What About Safety?

- Family First does not change state law regarding evidence needed to remove
- Family First does not change agency's practice model for assessing cases
- Family First does aim to reduce the trauma of separation and recognizes that foster care is not always "safer"
- Family First may change analysis of what is "reasonable"



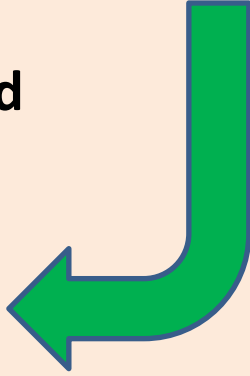
Reasonable Efforts

(B) Reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) ...reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan...and to complete whatever steps are necessary to finalize the permanent placement of the child;



***42 U.S.C. § 671(a)(15)
& 45 CFR 1356.21***

Theme 2

**Promote Kinship
Involvement**

Promote Kinship Involvement

Kin are eligible for the new prevention services

- Prevention services also for adoption and of disruption or dissolution

Title IV-E funds for Kinship Navigator Programs

- Must be evidence-based
- No income-test!
- Open to any kinship families, do not need to be “candidate for foster care”
- Statewide or focused within localities



Improving licensing standards for relative foster homes

- Model licensing standards issued by HHS (not a mandate, but a guidepost)

Enhanced kin involvement in residential assessment and treatment



Advocate's Opportunities

- **Move the court (and build a record) for kinship placement:**
 - Informal placement as an alternative to court-involvement
 - Formal kinship placement, unlicensed and licensed
 - Licensing waivers remain available
 - Services to prevent removal or disruption
 - Advocate for expanded definition of kin (Ex. ACYF-CB-PI-18-11)





Advocate's Opportunities (Cont'd)

- **Request kinship support from the agency:**
 - Routinize court inquiry about efforts to locate kin
 - Services for (1) children and youth (2) for kin caregivers themselves and (3) and parents
 - Includes referrals for benefits, training, and legal assistance
 - Per statute, part of child's case planning team
 - Argue legal nexus between these supports and **Reasonable Efforts** to achieve permanency with kin



Theme 3

**Reduce
Overreliance on
Institutional Care**

Reduce Overreliance on Institutional Care

Title IV-E maintenance payments *only* available for certain settings:

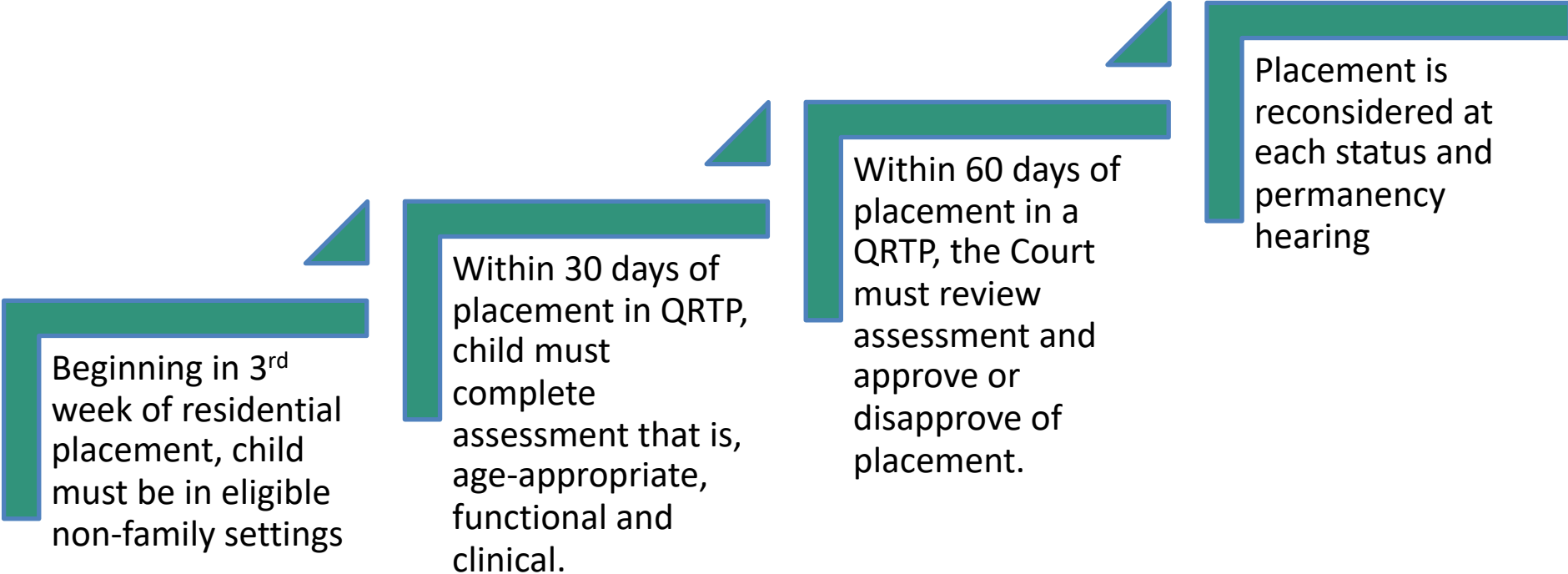
- Foster family homes (6 children or fewer, with exceptions)
- Placements for expectant or parenting youth
- Supervised independent living for youth 18+
- Specialized placements for victims & youth at risk of sex trafficking
- Children with parent(s) in residential SUD treatment facility
- **Qualified Residential Treatment Programs (QRTP)**
- Non-QRTP congregate care facilities up to two weeks

What is a Qualified Residential Treatment Program (QRTP)?

- Facilitate outreach to the child's family and participation in treatment
- Provide discharge planning and family-based aftercare supports for at least 6 months after discharge
- Registered or licensed nursing staff and other licensed clinical staff available/on-call 24/7
- Licensed and accredited by COA, CARF, or JCAHO

Court Review of QRTP Placements

See Utah Code 78A-6-311.5



Beginning in 3rd week of residential placement, child must be in eligible non-family settings

Within 30 days of placement in QRTP, child must complete assessment that is, age-appropriate, functional and clinical.

Within 60 days of placement in a QRTP, the Court must review assessment and approve or disapprove of placement.

Placement is reconsidered at each status and permanency hearing



Advocate's Opportunities

Ensure High-Fidelity Independent Assessment:

- Written assessment, to occur within 30 days
- Conducted by a qualified clinician not employed by the state agency or QRTP
- Screening tool: must be age-appropriate, evidence-based, validated, functional assessment tool
- Assessor must consult:
 - all appropriate family, relatives, and fictive kin of the child, as well as relevant professionals (ex. teachers, medical or mental health providers, clergy)
 - child age 14 or over can select additional team members
- Have state protocols to prevent inappropriate diagnosis been followed?
- Assessor must develop child-specific short- & long-term mental & behavioral health goals



Advocate's Opportunities (Cont'd)

Review QRTP Case Plan to Ensure Compliance:

- the reasonable and good faith effort of the agency to include all the individuals required to be on the child's family and permanency team;
- all contact information for family, fictive kin and permanency team;
- evidence that meetings of the family and permanency team, including meetings relating to the required 30-day assessment of the appropriateness of the QRTP placement **are held at a time and place convenient for family;**
- if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the team membership;
- if QRTP is recommended over the objection of the child or parent, the reasons why the preferences of the team and of the child were not recommended.
- Citations: Sec. 471(e)(4) and ACYF-CB-IM-18-02)



Court Review of QRTP Placements

Parties May Support or Oppose Initial Court Determination:

- Initial review and approval/disapproval to occur within 60 days
- Law is silent as to whether there must be a hearing; no bar on requesting hearing
- File written opposition if appropriate

****Required Judicial Finding**:**

“Whether or not [QRTP] provides the **most effective** and **appropriate level of care** for the child in **least restrictive environment**” and is “**consistent with the permanency plan.**”

Parties May Request or Object to Exceptions as Appropriate:

- Large sibling groups (6+), parenting youth, meaningful relationships
- Foster homes trained to care for children with “severe disabilities”
- Non-QRTP programs that meet client’s needs can still be funded through state dollars



Advocate's Opportunities (Cont'd)

Support or Oppose Continued QRTP Placement:

- Agency must submit documentation regarding placement at each future hearing, including documentation of effort's to return the child to a non-institutional setting (link to **Reasonable Efforts**)
- Is the QRTP able to provide the treatment recommended by the Independent Assessor?
- Is QRTP being used as a treatment rather than a placement?
- Is the QRTP facilitating family participation in the child's treatment?
- Aftercare plan for 6 months following discharge
- Citations: Sec. 475A(c)(2) and ACYF-CB-IM-18-02

Audience Poll

Which of the following describes a potential objection to an initial QRTP placement?



Theme 4

**Support Transition-
Aged Youth**

Support Transition-Aged Youth

- Extends Chafee services to age 23 (previously 18-21)
 - Only applies to states that extend foster care to age 21
- Extends ETV eligibility to age 26 (previously 23)
 - 5-year limit on participation
- Requires agency to provide youth official documentation to prove they were in foster care – needed for accessing Medicaid to age 26.





Advocate's Opportunities

- **Educate clients and court partners about expanded eligibility for Chafee services**
 - Youth who have experienced foster care at age 14 or older
 - Youth who have aged out of foster care at age 18 or older
 - Youth who left foster care for adoption or guardianship at age 16 or older
 - In applicable states, Chafee services until 23 years old and ETV funds until 26 years old
- **Request court orders for foster care status and vital documents**
- **Encourage youth participation in CFSR, PIP, APSR. CIP and other systemic efforts**
- Argue for/ against **Reasonable Efforts** to transition to adulthood
- Citations: ACYF-CB-IM-18-02 and ACYF-CB-PI-18-06

Reasonable Efforts

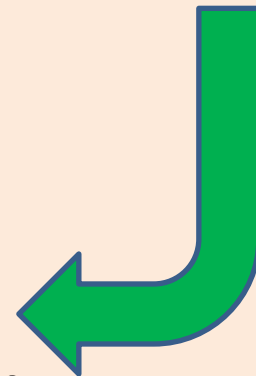
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Additional Family First Changes

- Electronic ICPC system (all states by FY 2028)
- State plans to prevent child abuse and neglect fatalities
- New competitive grants for recruiting and retaining foster parents (\$8 million between FY2018 - FY2022)
- Reauthorizes Adoption and Guardianship Incentive Program
- Delays the Title IV-E Adoption Assistance phase-in for children under two years old
- Certification around juvenile justice impact



Family First Transition Act

December 2019

- Phase-in of 50 percent “Well-Supported” requirement for program
- \$500 million in one-time, flexible transition funding to help states implement Family First – formula grants to states
- Short-term funding for 22 states with expiring waivers

Utah’s estimated allocation is \$6,889,477

Q & A



"Sir, I have a question that's lunch-related."

Learn More

Utah's FFPSA Website:

<https://hs.utah.gov/ffpsa>

Utah Title IV-E Prevention Program (2020-2024):

<https://dcfs.utah.gov/wp-content/uploads/2020/01/Utah-IV-E-Prevention-Program-Plan-Approved-12.11.19.pdf>

Family First Website: <https://familyfirstact.org/> - One-stop-shop for helpful summaries, TA briefs and federal guidance

Implementing the Family First Prevention Services Act:

<https://www.childrensdefense.org/wp-content/uploads/2020/02/FFPSA-Guide.pdf>

(Nearly 200 pages of FAQs!)

HHS's related written guidance:

<https://www.acf.hhs.gov/cb/laws-policies/policy-program-issuances>



THANK YOU!

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