



# The Family First Prevention Services Act

## Historic Reforms to the Child Welfare System will Improve Outcomes for Vulnerable Children

February 2018

*On February 9, 2018, President Trump signed into law the landmark bipartisan Family First Prevention Services Act, as part of Division E in the Bipartisan Budget Act of 2018 (H.R. 1892). Family First includes long-overdue historic reforms to help keep children safely with their families and avoid the traumatic experience of entering foster care, emphasizes the importance of children growing up in families and helps ensure children are placed in the least restrictive, most family-like setting appropriate to their special needs when foster care is needed. Family First builds on the original version of the bill passed in the House of Representatives in June 2016 (H.R.5456).*

### **SUBTITLE A. INVESTING IN PREVENTION AND FAMILY SERVICES**

#### **Part 1 – Prevention Activities Under Title IV-E**

*(Sections 50711, 50712, 50713)*

Beginning October 1, 2019, states will have the option to use Title IV-E funds for prevention services for eligible children at risk of foster care placement and their families.

#### **Eligibility for Prevention and Family Services and Programs (Sec. 50711):**

- Children who are “candidates” for foster care, meaning they are identified in a prevention plan as being at imminent risk of entering care but can safely remain at home or in a kinship placement if provided services that prevent entry into foster care. This includes children whose adoption or guardianship arrangement is at risk of disruption or dissolution that would result in entry into foster care.
- Children in foster care who are pregnant or parenting.
- Parents or kin caregivers of candidates for foster care where services are needed to prevent the child’s entry into care or directly relate to the child’s safety, permanence or well-being.

#### **Duration of Prevention and Family Services and Programs (Sec. 50711):**

- Title IV-E dollars can only be used to provide services for a maximum of 12 months beginning on the date the child is identified in a prevention plan as a candidate for foster care or a pregnant and parenting foster youth in need of services. Children and families can receive these services more than once if they are later identified again as a candidate for foster care.

#### **No Title IV-E Income Eligibility Requirement for Prevention and Family Services and Programs (Sec. 50711):**

- Eligible children, youth, parents and kin caregivers are eligible for prevention services and programs regardless of whether they meet the AFDC income-eligibility requirements required for Title IV-E reimbursement.

#### **Types of Prevention and Family Services and Programs (Sec. 50711):**

- There are several types of services and programs eligible for Title IV-E reimbursement for not more than a 12-month period:

- Mental health and substance abuse prevention and treatment services provided by a qualified clinician.
- In-home parent skill-based programs, which include parenting skills training, parent education and individual and family counseling.
- Services and programs can be funded with federal dollars for not more than a 12-month period that begins on either the date on which a child is identified in a prevention plan as a candidate for foster care or as a pregnant or parenting youth in foster care in need of prevention and family services and programs.
- The services and programs must be trauma-informed.
- The services and programs must meet certain evidence-based requirements that follow promising, supported, or well-supported practices as defined in the bill. (Modeled from evidence-based criteria similar to that used by the California Evidence-Based Clearinghouse for Child Welfare.)
- The Secretary of the Department of Health and Human Services (the Secretary) will release guidance no later than October 1, 2018 on the practice criteria required for these services or programs and a “pre-approved” list of services and programs that meet these requirements. This Secretarial guidance will be updated as often as necessary.

#### Prevention Plan Requirements (Sec. 50711):

- To receive the prevention services and programs, each candidate for foster care and pregnant or parenting youth must have a written prevention plan that specifies the needed services for or on behalf of the child. The services or programs identified in the prevention plan need to be trauma-informed.
  - Candidates for foster care must have a written prevention plan that identifies the strategy for the child to remain safely out of foster care and the list of services or programs needed for the child or on behalf of the child.
  - Pregnant or parenting youth in foster care must have a written prevention plan that includes their case plan, list of services or programs needed to ensure that a youth is prepared or able to be a parent, and a foster care prevention strategy for any child born to that youth.

#### State Plan Requirement (Sec. 50711):

- States that choose to take the option to use Title IV-E funds for prevention will need to include in their state child welfare plan a prevention services and programs plan component that details how the state will monitor and oversee the safety of children who receive Title IV-E prevention services or programs, including through periodic risk assessments for each child receiving them; describe the services and programs the state intends to provide and whether they are promising, supported, or well-supported; describe the outcomes the state intends to achieve; discuss how the state will evaluate its provision of each prevention service or program offered; describe how it will continuously monitor its provision of these prevention services and programs and use the information learned to refine and improve its practices; and describe how child welfare workers will be trained and supported to effectively carry out Title IV-E prevention services and supports.
- The prevention services and programs plan component must be updated every five-year period for which the plan component is in operation. The state plan must be approved by HHS to draw down the new federal prevention funds.

#### Federal Reimbursement for Prevention Services and Programs (Sec. 50711):

- Federal financial participation (FFP) for the prevention services and programs will be phased in to allow for careful analysis of the progress being made in the delivery and outcomes of the services.

- Beginning October 1, 2019 and before October 1, 2026, the FFP available to states will be 50 percent for the prevention services and programs that are promising, supported, and well-supported practices.
- Beginning after September 30, 2026 the FFP will be the state's Federal Medical Assistance Percentage (FMAP) for the prevention services and programs that are promising, supported, and well-supported practices.
- At least 50 percent of the expenditures reimbursed by federal funds must be for prevention services and programs that meet the requirements for well-supported practices.
- States cannot receive federal reimbursement for a promising, supported, or well-supported practice unless their state plan includes a well-designed and rigorous evaluation strategy for that practice; however, HHS can waive this requirement for any well-supported practice if the evidence of its effectiveness is compelling and the state meets certain continuous quality improvement requirements.
- States will be allowed to use Title IV-E funds for training and the administrative costs associated with developing the necessary processes and procedures for these services (including expenditures for data collection and reporting), based on a 50 percent reimbursement rate. These service, training and administrative costs are "delinked" from the AFDC income eligibility requirement for Title IV-E.

Maintenance of Effort for Foster Care Prevention Expenditures (Sec. 50711):

- There is a maintenance of effort (MOE) requirement on "foster care prevention expenditures" to avoid states substituting their current state/local prevention dollars with the new Title IV-E funds.
  - States cannot spend less than they did on state foster care prevention expenditures in FY2014 (or at the option of a state where the child population in 2014 was less than 200,000, FY2015 or FY2016, whichever the states chooses) both for funds that are matched and for funds not matched by the federal government.
  - States will need to report to HHS on their state foster care prevention expenditures for FY2014 under TANF, Title IV-B, SSBG and other state programs. The MOE requirement does not apply to state spending on prevention under certain Title IV-E waivers. States will need to report these state expenditures every year to ensure compliance with the MOE. HHS will specify the prevention services and activities that should be counted under TANF, Title IV-B, SSBG and other programs.

Performance Measures and Data Collection on Prevention Services or Programs (Sec. 50711):

- States will need to collect and report the following data to the Secretary for each child receiving (or adult receiving on the child's behalf) prevention services or programs during the 12-month period beginning on the date when the child is identified in a prevention plan:
  - The specific services or programs provided and the total expenditure for each.
  - The duration of the services or program provided.
  - In the case of a candidate for foster care, the child's placement status at the beginning and end of the 12-months, and whether the child entered foster care within two years of being determined a candidate.
- Beginning in 2021, and annually thereafter, the Secretary will establish national prevention services measures on the following indicators based on the data reported by the states:
  - Percentage of candidates for foster care who do not enter foster care during the 12-month period when the prevention services or programs are provided (to them or on their behalf) and through the end of the succeeding 12-month period.
  - Per-child spending of the total amount of expenditures for the prevention services or programs (to or on behalf of the child).

- The Secretary will establish and annually update the prevention services measures based on the median state values for the 3 most recent years, and will take into account differences in state prices using the Bureau of Economic Analysis of the Department of Commerce or other such appropriate data. HHS will make available to the public each state's performance measures.

Eligibility for Indian Tribes, Tribal Organizations (Sec. 50711):

- Tribes with an approved Title IV-E plan have the option to use Title IV-E funds for prevention services and programs. HHS will specify the requirements applicable to tribes, which will be consistent with state requirements, to the extent possible, but allow for cultural adaptation that best fits the context of the tribal community.
- For each tribe, organization, or consortium that takes the option for prevention services and programs, HHS will establish specific performance measures on the prevention services, which will be consistent with the state performance measures, to the extent possible, but also take into consideration the factors unique to the tribe, organization or consortia.

Technical Assistance and Best Practices [Sec. 50711(d)]:

- HHS will provide technical assistance and best practices to states and tribes on the prevention services and programs, including how to plan and implement a well-designed and rigorous evaluation of promising, supported, or well-supported practices. HHS will evaluate research on promising, supported and well-supported practices and establish a clearinghouse of these practices and their outcomes. HHS may also collect data and conduct evaluations on the prevention services and programs to assess how these services are reducing the likelihood of foster care placement, increasing the use of kinship care placements, or improving child well-being.
- HHS must submit to the Senate Finance and the House Ways and Means Committees periodic reports on the prevention services and programs, which will also be made available to the public.
- There is \$1 million appropriated to HHS to carry out these provisions in FY2018 and each year afterwards.
- This requirement is effective upon enactment of the law.

Other (Sec. 50711):

- A child who is with a kin caregiver for more than six months and meets the Title IV-E eligibility requirements will continue to be eligible for Title IV-E foster care payments at the end of the 12 months.
- Services and programs provided to or on behalf of a child will not be counted against that individual as receipt of aid or assistance in regards to their eligibility for other programs.
- U.S. territories are eligible for the new Title IV-E prevention funding.

Federal Reimbursement for Children in Residential Family-based Substance Abuse Treatment with a Parent (Sec. 50712):

- States can get Title IV-E reimbursement for not more than 12 months for a child who has been placed with a parent in a licensed residential family-based treatment facility for substance abuse, regardless of whether the child meets the AFDC income-eligibility requirement for Title IV-E. Additional requirements include:
  - The child's case plan has to recommend this placement;
  - The substance abuse treatment facility must provide parenting skills training, parent education, and individual and family counseling; and
  - The treatment and related services must be trauma-informed.
- This requirement is effective on October 1, 2018.

Reimbursement for Evidence-Based Kinship Navigator Programs (Sec. 50713):

- States can receive Title IV-E reimbursement for up to 50 percent of the state’s expenditures on kinship navigator programs that meet the evidence-base requirements of promising, supported, or well-supported practices, without regard to whether those services were accessed on behalf of children who meet the AFDC income-eligibility requirements for Title IV-E.
- This requirement is effective on October 1, 2018.

**Part II – Enhanced Support Under Title IV-B**

*(Sections 50721, 50722, 50723)*

Changes to Use of Title IV-B Services for Family Reunification Services (Sec. 50721):

- Eliminates the current 15-month time-limit on the use of Title IV-B funds for family reunification services for children in foster care. However, clarifies that a child returning home also will now have access to 15-months of family reunification services beginning on the date the child returns home. Changes the name of the program from “Time-Limited Family Reunification Services” to “Family Reunification Services.”
- This requirement is effective on October 1, 2018.

Improving Interstate Placements (Sec. 50722):

- No later than October 1, 2027, states will need to use an electronic interstate case-processing system for exchanging data and documents to help expedite the interstate placement of children in foster care, adoption or guardianship. U.S. territories, Indian tribes, tribal organizations and tribal consortiums are exempt from this requirement.
- Provides funding authority (\$5 million for FY2018, with funds that remain available through FY2022) under Promoting Safe and Stable Families to help states develop electronic interstate case-processing systems. States will need to submit to HHS an application that details how the grant will support the state in connecting with the electronic system, including how the grant will help it reduce times to permanency, improve administrative processes and reduce costs in the foster care system, and ensure secure exchange of data and timely placement decisions, strategies for integrating programs and services across state lines. In providing funds, HHS shall prioritize states not yet connected with the electronic interstate case-processing system. Funds must be used to support a connection to the system or enhancing or expediting services provided under the system.
- Not later than one year after the final grant year, HHS will submit to Congress and make available to the public a report on how the system has changed the time it takes to complete interstate placements, how many cases were processed inside and outside the electronic system, state implementation progress, how the system affected other metrics related to child safety and well-being, and how the system affected administrative costs and caseworker time spent on interstate placements.
- HHS will work with the Secretariat for the Interstate Compact on the Placement of Children and the states in assessing how this system can be used to better serve and protect children that come to the attention of the child welfare system by connecting the system to other data systems. For example, how it can help children who have been identified as victims of sex trafficking or missing from foster care, or help expedite background check requirements in Title IV-B.

Improving the Regional Partnership Grants to Help Families Affected by Substance Abuse: (Sec. 50723)

- Amends the Regional Grant Partnership (RGP) in Title IV-B, Subpart 2, by specifying the various partners that need to be a part of the collaborative agreement (interstate, state, or intrastate), including:

- The mandatory partners for all partnership grants, which must include the state child welfare agency and the state agency responsible for administering the substance abuse prevention and treatment block grant
- The mandatory partners for partnership grants that serve children in out-of-home care, which must include the appropriate courts that work with these families.
- The optional partners, which may include Indian tribes, tribal consortium, nonprofit and for-profit child welfare service providers, community health and mental health providers, law enforcement, school personnel, tribal child welfare agencies and any others related to provision of services under the partnership.
- Tribes entering into a RGP may (but are not required to) include the state child welfare agency as a partner, but are not allowed to partner only with tribal child welfare agencies. If the tribe is working in a partnership grant that serves children in out-of-home care they may include a tribal court in lieu of other judicial partners.
- Extends RGPs for an additional five years (FY2017 – FY2021). The amount per grant per fiscal year can be no less than \$250,000 and no more than \$1,000,000.
- RPG grants will be awarded in two phases: first, a planning phase (not to exceed two years, and not to exceed \$250,000 or the total anticipated funding for the implementation phase); second, an implementation phase.
- Payments won't be made until the Secretary determines that sufficient progress has been made in meeting the goals of the grant and that the members of the partnership are coordinating together.
- Amends the RPG application requirements, including:
  - Modifying the goals for RPGs, including the addition of goals that improve substance abuse treatment outcomes for parents and families, as well as children, and focus on safe, permanent caregiving relationships for the children, an increasing reunification rate, and facilitate the implementation, delivery and effectiveness of the new prevention services in Title IV-E.
  - Adding a description for a sustainability plan at the end of the grant.
  - Adding information about how the proposed activities are consistent with current research or evaluations on effective practices
- Amends the performance indicators to reflect child safety and parent well-being, and try to make the indicators consistent with the outcomes measures for the new Title IV-E prevention services.
- Modifies the reporting requirements to include semi-annual reports to HHS on the services provided, progress made in achieving goals, and number of children and families receiving services.
- This is effective on October 1, 2018.

### **Part III – Miscellaneous**

*(Sections 50731, 50732, 50733)*

#### **Improving Licensing Standards for Relative Foster Family Homes (Sec. 50731):**

- HHS will identify reputable model licensing standards for foster family homes not later than October 1, 2018, and no later than April 1, 2019 states will need to submit to HHS:
  - Whether their licensing standards are in accord with HHS' model standards, and if not, why they deviate and a description of why that model standard is not appropriate for the state.
  - Whether they waive certain licensing standards for relative foster family homes, and if so, a description of the standards they most commonly waive. If the state does not waive standards for relatives, they must describe the reason for not doing so.
  - If the state waives licensing standards for relatives, a description of how caseworkers are trained on this waiver and whether the state has developed a process or tools to help

caseworkers in waiving the non-safety standards to help place children with relatives more quickly.

- A description of how the state is improving caseworker training or the process on licensing standards.

#### Developing Statewide Plans to Prevent Child Abuse and Neglect Fatalities (Sec. 50732):

- Requires states to document in their state plan for the Title IV-B Child Welfare Services program the steps they are taking to track and prevent child maltreatment fatalities, including:
  - How the state is compiling complete and accurate information on these fatalities, including information on deaths from relevant organizations (i.e. State vital statistics department, child death review teams, law enforcement agencies, offices of medical examiners or coroners).
  - How the state is developing and implementing a comprehensive, statewide plan to prevent child maltreatment fatalities that engages public and private agency partners, including those in public health, law enforcement and the courts.
- This requirement is effective on October 1, 2018.

#### Modernizing the Title and Purpose of Title IV-E (Sec. 50733):

- Changes the name of the Title IV-E program from “Part E—Federal Payments for Foster Care and Adoption Assistance” to “Part E—Federal Payments for Foster Care, Prevention, and Permanency.” The purpose of Title IV-E is also amended to reflect the new use of federal funds for prevention services and programs.
- This requirement is effective immediately upon enactment.

## **PART IV. ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME**

*(Sections 50741, 50742, 50743, 50744, 50745, 50746)*

Beginning October 1, 2019, states must take steps to safely reduce the inappropriate use of congregate/group care for children. States have the option delay the effective date for up to two years; however any state that does so must also postpone seeking Title IV-E prevention investments for the same period of time.

#### Restrictions on Federal Reimbursement for Placements Other than Foster Family Homes (Sec. 50741):

- Beginning with the third week of a child entering foster care, states will only be eligible for Title IV-E foster care payments on behalf of a child in the following settings:
  - A foster family home of an individual or family that is licensed or approved by the state, and is capable of adhering to the reasonable and prudent parent standard, provides 24 hour care for children placed away from their family, and provides care to six or fewer children in foster care (exceptions to this limit can be made to accommodate parenting youth in foster care to remain with their child, keep siblings together, keep children with meaningful relationships with the family, and care for children with severe disabilities).
  - A child-care institution (defined as a licensed private or public child-care institution with no more than 25 children) that is one of the following settings:
    - A Qualified Residential Treatment Program (QRTP)
    - A setting specializing in providing prenatal, post-partum, or parenting supports for youth.
    - A supervised setting for youth ages 18 and older who are living independently.

- A setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims.

(Child-care institutions do not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children determined to be delinquent.)

- Children who are placed with a parent in a licensed residential family-based substance abuse treatment facility for up to 12 months. (As reflected in Sec. 50712 mentioned above.)
- Restriction on Title IV-E payments does not prohibit payments for administrative expenditures incurred on behalf of the child in a child care institution.

Qualified Residential Treatment Programs (QRTP) (Sec. 50741):

- A Qualified Residential Treatment Programs (QRTP), is defined as a program that:
  - Has a trauma-informed treatment model designed to address the needs, and clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances, and can implement the necessary treatment identified in the child’s assessment. (See the section below for more information on the assessment.)
  - Has registered or licensed nursing staff and other licensed clinical staff who can provide care, who are on-site consistent with the treatment model, and available 24 hours and 7 days a week. The QRTP does not need to have a direct employee/employer relationship with required nursing and behavioral staff.
  - Facilitates family participation in child’s treatment program (if in child’s best interest)
  - Facilitates family outreach, documents how this outreach is made, and maintains contact information for any known biological family and fictive kin of the child.
  - Documents how the child’s family is integrated into the child’s treatment, including post-discharge, and how sibling connections are maintained.
  - Provides discharge planning and family-based aftercare supports for at least 6 months post-discharge.
  - The program is licensed and nationally accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation, or others approved by the Secretary.

Assessment to Determine Appropriateness of Placement in a QRTP (Sec. 50742):

- Within 30 days of a child being placed in a QRTP setting, a qualified individual must assess the child’s strengths and needs using an age-appropriate, evidence-based, validated, functional assessment tool to determine if the child’s needs can be met with family members or in a foster family home, or in one of the other approved settings (i.e. facilities for pregnant or parenting youth or independent living facilities) consistent with the short- and long-term goals of the child and their permanency plan. HHS will release guidance on valid assessment tools. The qualified individual will also need to develop a list of child-specific short- and long-term mental and behavioral health goals.
  - The assessment must be done by a “qualified individual”, who is a trained professional or licensed clinician who is not a state employee or affiliated with any placement setting in the state. However, this requirement may be waived by the Secretary upon request of a state certifying that trained professional or licensed clinician can maintain objectivity in the assessment process.
  - If the assessment is not completed in the first 30 days of the child’s placement in a QRTP the state can no longer receive federal reimbursement for foster care maintenance payments for that child while they are in that placement.



- The qualified individual must conduct the assessment in conjunction with the child’s family and permanency team, which may include parents, relatives, fictive kin, appropriate professionals (teachers, medical and mental health providers, clergy or others familiar with the child). If the youth is age 14 or older she can also select and bring with her two members of the permanency planning team, as established in the Preventing Sex Trafficking and Strengthening Families Act of 2014.
  - The state will need to document in the child’s case plan their efforts to identify and include a family and permanency team for the child, contact information for the team (including other family and fictive kin who aren’t in the team), evidence that meetings were held at a time convenient for the family and permanency team, evidence that the child’s parent provided input if reunification is the permanency goal, evidence that the assessment was made in conjunction with the team, the placement preference of the team that acknowledges the importance of keeping siblings together, and if the team’s placement preference is different than that of the qualified individual the reason why the recommendations are different.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a QRTP (Sec. 50741):

- If it is determined by an assessment of court order that a QRTP placement is not appropriate for a child, then the state has an additional 30 days from the time that determination is made to transition the child down to another placement or step the child up to a facility that can better address the child’s needs. States will be reimbursed at the FFP during this 30 day period, but states will have to pay the full cost for the child beyond those 30 days if the child remains in a setting that is not appropriate for addressing the child’s needs. These funds appear to be able to assist with the transition.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a Foster Family Home (Sec. 50742):

- If it is determined that a QRTP placement is appropriate for a child, the qualified individual needs to document in writing why the child’s needs cannot be met by her family or in a foster family (shortage of foster family homes cannot be an acceptable reason), why a QRTP will provide the most effective and appropriate level of care and in the least restrictive environment, and how it is consistent with the short- and long-term goals of the child.
- Within 60 days of a placement in QRTP the court must review the assessment and approve or disapprove of the QRTP placement.
- For children who remain in a QRTP, at every permanency hearing the state agency will need to submit evidence:
  - Demonstrating the ongoing assessment that the child’s needs continue to be best met in a QRTP and it is consistent with the child’s short- and long-term goals.
  - Documenting the specific treatment or service needs that will be met by the QRTP and the length of time the child is expected to need those treatment and services.
  - Documenting the efforts made to prepare the child to exit care or to be placed in a foster family home.
- For children in a QRTP for 12 consecutive or 18 nonconsecutive months (or for more than 6 consecutive months for children under age 13) the state will need to submit to HHS the most recent evidence and documentation supporting this placement with a signed approval by the head of the state.

Protocols to Prevent Inappropriate Diagnoses (Sec. 50743):

- States will need to establish as part of their health care services oversight and coordination plan procedures and protocols to ensure children in foster care are not being inappropriately diagnosed

with mental illnesses, disorders or disabilities that may result in the child not being placed with a foster family home. This is effective as if enacted January 1, 2018.

- HHS will evaluate these procedures and protocols and the extent to which states comply and enforce them, identify best practices, and submit a report on the evaluations to Congress not later than January 1, 2020.

Training State Judges, Attorneys and Other Legal Personnel about New Restrictions (Sec. 50741):

- The Court Improvement Program in Title IV-B, Subpart 2, is amended to include training to judges, attorneys, and other legal personnel in child welfare about the new changes made to federal policy and reimbursement for children placed in settings that are not foster family homes.
- This is effective as if enacted January 1, 2018.

Assuring Changes in Federal Reimbursement Do Not Impact the Juvenile Justice System (Sec. 50741):

- States will need to include in their state plan a certification assuring that the state will not enact or advance policies or practices that will result in a significant increase in number of youth in the juvenile justice system because of the new restrictions on federal reimbursement for children not placed in a foster family home. This provision is effective on October 1, 2019.
- The GAO will do a study evaluating the impact on the juvenile justice system as a result of the new restrictions on federal reimbursement for children not placed in a foster family home. Specifically, the GAO will evaluate the extent to which children in foster care who are in the juvenile justice system and placed in a juvenile justice facility are there as a result of the lack of available congregate care placements. GAO must submit this report to Congress no later than December 1, 2025.

Criminal Records Checks and Checks of Child Abuse and Neglect Registries for Adults Working in Child-care Institutions and Other Group Care Settings (Sec. 50745):

- States are required to have procedures for background checks to be carried out on any adult working in group care settings where foster children are placed. This is effective on October 1, 2018.

Exceptions for States with a Title IV-E Waiver (Sec. 50746):

- States that have an active Title IV-E Demonstration Waiver when the changes in Title IV-E for group care go into effect will not be held to the changes if they are inconsistent with the terms of their waiver until the waiver expires.

Data and Reports on Children Placed in Settings Other than Foster Family Homes (Sec. 50744):

- States will need to collect data and report on the following data items for children in child-care institutions or other settings that are not foster family homes:
  - The type of placement setting (i.e. shelter care, group home, residential treatment facility, hospital or institution, setting for pregnant or parenting youth, etc.)
  - The number of children in the setting, and the age, race/ethnicity and gender of each child in the setting.
  - For each child, the length of stay in that setting, whether it was the child's first placement, and if not, the number of previous placements, and whether or not the child has special needs.
  - The extent of specialized education, treatment, counseling, or other services provided in that setting.
- States will also have to report on the number and ages of children in these placements that have a permanency goal of Another Planned Permanent Living Arrangement (APPLA).
- This is effective as if enacted January 1, 2018, and will serve as a useful baseline as the new requirements for group care are implemented.

## **PART V. CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES**

*(Sections 50751, 50752, 50753)*

### **Supporting and Retaining Foster Families for Children (Sec. 50751):**

- Amends the definition of “Family Support Services” under Promoting Safe and Stable Families in Title IV-B, Subpart 2, to include community-based services that are designed to support and retain foster families so they can provide quality family-based settings for children in foster care. The current definition focuses primarily on services for the child’s family, and this change will allow for additional support for foster families.
- Creates under Title IV-B, Subpart 2, competitive grants (\$8 million in FY2018 that remain available through FY2022) to states and tribes to support the recruitment and retention of high-quality foster families to help place more children in foster family homes. The grants will be focused on states and tribes that have the highest percentage of children in non-family settings.

### **Extending Child and Family Services Programs Under Title IV-B (Sec. 50752):**

- Extends for five years (FY2017 through FY2021) the following programs:
  - The Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B, Subpart 1).
  - The Promoting Safe and Stable Families Program (Title IV-B, Subpart 2) is extended at the current mandatory level of \$345 million a year. Discretionary funding under Promoting Safe and Stable Families is also extended for five years, as well as the funding reservations for supporting monthly caseworker visits, Regional Partnership Grants, and funding for state Court Improvement Program Grants (mandatory funding).

### **Improving the John H. Chafee Foster Care Independence Program (Sec. 50753):**

- Extends to age 23 the financial, housing, counseling, employment, education, and other appropriate supports and services to former foster care youth under the John H. Chafee Foster Care Independence Program (Chafee). The supports and services under Chafee are currently only available to youth between ages 18 and 21.
- The extension of Chafee services to age 23 only applies to states that have taken the option to extend foster care to youth to age 21, or states that HHS determines are using state or other funds to provide services and assistance to youth who have aged out that are comparable to those youth would receive if the state had taken the option to extend care.
- If a state has unspent Chafee funds remaining (i.e. at the end of the two-year period that funds are available to them), HHS can make those available to redistribute to other states that apply for additional funds, as long as HHS determines that those states will use the funds for the purposes stated. The amount redistributed to the states will be based on the “state foster care ratio” (i.e. the number of children in foster care in one state compared to the overall number of children in foster care nationally). Tribes can also participate.
- Extends to age 26 eligibility for Education and Training Vouchers under Chafee, which are currently only available to youth up to age 23, and clarifies that higher education vouchers are also available to youth who are at least 14-years old. Youth cannot participate in the voucher program for more than 5 years (whether or not consecutive).
- Changes the name of the program from the “John H. Chafee Foster Care Independence Program” to the “John H. Chafee Foster Care Program for Successful Transition to Adulthood.” Also makes several language changes throughout Chafee, including clarifying that these services can start for youth at age 14.
- Not later than October 1, 2019, HHS must submit to the House Ways and Means and Senate Finance Committees a report on the National Youth in Transition Database (NYTD) and other

relevant databases that track outcomes of youth who aged out of care or who exited care to adoption or kinship guardianship, including:

- Comparing the reasons for entering foster care and the foster care experience for 17-year-olds (i.e. length of stay, number of placements, case goal, discharge reason) to children who left care before turning 17.
- Characteristics of youth ages 19 and 21 who report poor outcomes to NYTD.
- Benchmarks for determining poor outcomes for youth who remain in care or exit care, and plans the Executive branch will take to use those benchmarks in evaluating child welfare agency performance in providing services to youth transitioning from care.
- Analysis of association between placement type, number of placements, time in care, and other factors related to outcomes at ages 19 and 21.
- Analysis of outcomes for youth ages 19 and 21 who were formerly in care compared to 19 and 21 year-olds still in care.
- Ensures that youth who age out of foster care are provided official documentation that proves they were previously in foster care. This information will be critical to youth who aged out who experience challenges accessing Medicaid to age 26, which they are now entitled to through the Affordable Care Act.

## **PART VI. CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP**

*(Section 50761)*

Reauthorizing the Adoption and Legal Guardianship Incentive Program (Sec. 50761):

- Reauthorizes the Adoption and Legal Guardianship Incentive Payment program, which was set to expire in FY2016, for an additional five years (FY2017 through FY2021). The incentive program allows states to receive award payments based on improvements the state makes in increasing exits from foster care to adoption or guardianship.
- This takes effect as if enacted on October 1, 2017.

## **PART VII. TECHNICAL CORRECTIONS**

*(Sections 50771, 50772)*

Changes to Data Exchange Standards to Improve Program Coordination (Sec. 50771):

- HHS, in consultation with an interagency workgroup, will designate data exchange standards around the information shared between different state agencies, including federal reporting and data exchange requirements.
- Includes a number of data exchange standard requirements, such as incorporating widely-accepted, computer-readable formats; the capacity to continually be upgraded; and to be implemented in a way that is cost-effective, efficient and effective.
- Two years after enactment HHS will issue a proposed rule that identifies federally required data exchanges; includes specification and timing of exchanges; addresses factors used to determine whether and when to standardize data exchanges; and specifies state implementation options and future milestones.

Changes to State Requirement to Address the Developmental Needs of Young Children (Sec. 50772):

- Amends the state plan requirement under Title IV-B, Subpart 1 to describe activities to reduce the length of time to permanency for children under the age of 5 and the activities the state undertakes

to address the developmental needs of all vulnerable children under age 5 who receive services until Title IV-B or Title IV-E.

## **PART VIII. ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASES IN ADOPTION ASSISTANCE**

(Sections 50781, 50782)

### Delay of Adoption Assistance Phase-in (Sec. 50781):

- Temporarily suspends, from January 1, 2018 to June 30, 2024, the increased federal reimbursement under Title IV-E Adoption Assistance for certain children adopted under age two. The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-135) began to “de-link” a child’s eligibility for federal Title IV-E Adoption Assistance from the outdated AFDC program by creating a 8-year phase-out of the de-link, beginning in 2010 for youth ages 16 and older, and going down two years of age ever year until 2018 when all children with special needs who are adopted will be eligible for federal reimbursement. All children with special needs will be eligible for Title IV-E Adoption Assistance on July 1, 2024.
- In the interim, children with special needs under 2 years of age will continue to be eligible for Title IV-E Adoption Assistance if they meet the existing Title IV-E eligibility requirements or are eligible for state-funded Adoption Assistance payments.
- This is effective as if enacted January 1, 2018.

### GAO Study on Savings Resulting from the Increase in Adoption Assistance (Sec. 50782):

- Requires the Government Accountability Office (GAO) to review states’ compliance with the various requirements of the adoption assistance federal reimbursement phase-in, specifically the:
  - Requirement that state savings generated from the phase-in are being used to provide services to adopted children and their families.
  - Requirement that the state will spend no less than 30 percent of the savings generated by the phase-in on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes, and that at least two-thirds of that 30 percent requirement be spent on post-adoption and post-guardianship services.
- The GAO must submit the findings of this study in a report to the Senate Finance and House Ways and Means Committees and HHS.

*\*The provisions in Parts I-III that are effective on October 1, 2018, and the provisions in Part IV that are effective as if enacted in January 1, 2018, if HHS determines that a state needs to enact legislation (other than appropriations) to bring its Title IV-E or Title IV-B plans into compliance with a requirement(s), the state is permitted to have additional time to do so. Specifically, the state would have until the first day of the first calendar quarter that occurs after the close of the first regular state legislative session that begins after the enactment of this act.*