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Legislative Update
**Family First Prevention Services Act:
An Overhaul of National Child Welfare Policies**

By: Fabiola Villalpando

I. INTRODUCTION

The Family First Prevention Services Act (“Family First”) was signed into law by President Trump on February 9, 2018 as part of the Bipartisan Budget Act of 2018 (H.R. 1892). Family First dramatically shifts the national child welfare focus to be more preventative and to prioritize keeping children with their families or in the least restrictive, most family-like settings possible. This new law builds on the original version of the bill passed by the House of Representatives in June 2016. The law redirects federal funds to invest in prevention services for children and families that are at risk for entering foster care. At the same time, Family First limits state funding for group home residential settings. While many child welfare advocates view these new goals in a positive light, others are concerned about the challenges that states with limited resources will face in adjusting to the changes.

II. FOSTER CARE IN THE UNITED STATES

In 2017, there were approximately 450,000 children in foster care in the United States. The majority of those children (approximately 195,000) were placed in non-relative foster family homes, about 140,000 children were placed in relative foster family, and almost 25,000 lived in group homes. Since 2012, the number of children in foster care has been steadily rising, likely due in part to the opioid epidemic. This is evident in recent statistics surrounding the circumstances associated with removal of children from their homes. In 2017, most children were removed due to neglect (62%), and the drug abuse of a parent (36%).

Some child welfare advocates argue that the current focus of the child welfare system is to react to instances of abuse and neglect, rather than offering preventative services to families at risk of entering the system. Advocates of this opinion often believe that this system mentality leads to unnecessary removal of children from their families. The crafters of Family First agree that small changes to the current system are not sufficient. Instead, Family First seeks to re-conceptualize the entire goal of child welfare policy in the United States and move towards a preventative model.

Family First implements changes in current federal funding structures in order to achieve its goals. The current funding system provides that the bulk of federal funding set aside for child welfare focuses on removal and post-removal services. According to a 2005 U.S. Department of Health and Human Services report, about 65% of Title IV-E funds for foster care go towards funding foster care placements, and 22% is dedicated to adoption assistance annually. Only about 11% is typically channeled into preventative services for

families. No major revisions have been made to the federal child welfare funding structure since it was first created in 1961, even though major changes have been made in that time to the child welfare field. Title IV-E funding models for child welfare have adequately kept up with the changing needs of the child welfare system and the families it serves.

III. FAMILY FIRST KEY FEATURES

The main goals of the Family First Prevention Services Act can be summarized in five points. Primarily, Family First seeks to break the cycle of removal and, instead, focus on developing strategies to strengthen families before the need for removal arises. Family First also seeks to change the role of foster care when it is necessary, such that foster care placements are supportive of the children's families rather than a substitute for them. This priority helps support the goal of family reunification more explicitly. Third, Family First seeks to institute a more trauma-informed approach to core practices, especially surrounding removal and placement. Because removal can be very traumatic for both children and their parents, the Act prioritizes focusing on practices that help keep families together as much as possible. This facet of Family First extends to focus on the need for strengthening of communities, based on the idea that families are stronger and less likely to become involved with the system when their communities contain better resources and support. The final goal is to develop better training and expectations for individuals working within the child welfare system. With the high rate of turnover and secondary trauma that arises within the child welfare workforce, Family First notes the important of ensuring that child welfare workers are highly skilled but also supported.

The most significant key feature of Family First is its focus on preventative services. Before the enactment of Family First, states received federal reimbursements for foster care, adoption or family reunification. These funds customarily were not used for prevention services that may keep children from entering foster care in the first place. Beginning in 2020, under Title IV-E of the Social Security Act, federal funds will now be directed to support evidence-based prevention efforts for (1) mental health and substance abuse prevention and treatment services and (2) in-home parenting skill services. Given the high rate of children affected by the opioid crisis, these preventative services should focus on providing community-based substance abuse prevention and treatment services. Services should be holistic and focus on healing parents and developing long-lasting resiliency strategies to break the cyclical relationship that some at-risk families currently have with the child welfare system.

Family First delineates that these services are only meant to be provided for no more than 12 months for families of children at imminent risk of entering foster care. This population of children is described by the law as "foster care candidates," which are children who are at "serious risk of removal from home as evidenced by the state agency either pursuing his/her removal from the home or making reasonable efforts to prevent such removal." Children whose adoption or guardianship arrangements may be disrupted or dissolved, causing them to enter the foster care system, may also be eligible for services. Prevention services will also be extended to pregnant or parenting teens.

Another critical way that Family First seeks to keep children with their families is by directing federal funds for evidence-based kinship care programs. States can receive federal reimbursements for up to 50% of state expenditures on kinship navigator programs that meet the evidence-base requirements described in the Act that are determined to be “promising or well-supported practices.”

IV. FAMILY FIRST POLICY IMPLICATIONS

Despite the positive nature of this shift to preventative care, some child welfare advocates are concerned that Family First's provisions for preventative services will not adequately meet the needs of at-risk families across the country. Especially for families suffering from the opioid crisis, advocates worry that 12 months of preventative services are simply not sufficient. Parents struggling with addictions often require extended support on what may be a long road to recovery. Additionally, Family First restricts access to preventative services only to the poorest families. However, some advocates argue that because income standards have not been recalibrated in several years, few families that need these services will actually qualify for them. States will have to rely on federal income standards from 1996 when evaluating eligibility for families. Given that the incidence of child abuse and neglect transcends socio-economic status, many families that could greatly benefit from these services may not have access to them. Another challenge to implementing this new focus on preventative services is that Family First may only effect change in the child welfare system. However, there are many systems at play in the lives of the families that the system serves. Systems such as the medical field, the mental health field, education, and law enforcement also play a role in preventing child abuse and neglect by working co-extensively to build strong, supportive communities for children to grow up in. Family First's focus on prevention must consider how these systems intersect with child welfare agencies in order to be truly effective.

Another controversial element of Family First is the federal government's shift away from dependence of group home placement settings. Under Family First, the funding available to congregate care will be capped. Beginning in 2020, Title IV-E reimbursements for group homes will only be available for two weeks unless a child is in a qualified residential treatment program (QRTP), or settings that specialize in prenatal or parenting support (for pregnant teens) or supervised independent living settings for youth in care over the age of 18. States may request a two-year delay to implement the group home provisions, but if they do, then they cannot receive federal funding for preventative services in the meantime.

These provisions place many states in a difficult position of having to choose between services that different groups of children may greatly depend on. States like Colorado, Rhode Island, West Virginia and Wyoming have the greatest percentage of children in care living in group homes. In New York, state officials are concerned that these limitations on group homes will cause certain counties to have to make up as much as 50 percent more of funding to maintain congregate care settings. Though it is true that children should only be placed in group homes when absolutely necessary, sometimes those placement settings are the only available spot. Advocates argue that especially for children

with serious histories of trauma, traditional foster homes may not be equipped to provide the care they need, and group home settings are the best alternative. Additionally, some congregate care settings are best equipped to serve children with specialized behavioral, disability, or mental health care needs. Group care settings are sometimes relied upon for limited period of time in order to stabilize children until they can return to family settings.

All in all, Family First presents a new and promising approach to child welfare practices across the country. Shifting to a preventative model and meaningfully reaching at-risk families can help to decrease the number of children in foster care nationally moving forward. However, special considerations need to be given to children who may depend on congregate care as the best care settings for their situations and to families who may fall outside of the eligibility requirements of the Act. The full implementation and incorporation of Family First into well-established state child welfare agencies may be a long and challenging process that requires that federal legislators be flexible with the distinct needs of children residing in different states. In order to appropriately serve communities across the country, the child welfare system must continue to uphold the true needs of vulnerable children and their families as their top priority.

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