

# Juvenile Law Issues Meeting

**Call In Number: 877.820.7831**

**Listen Only Passcode: 3059688**

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FEBRUARY 24, 2019

1:55-3:30 P.M.

SACRAMENTO, CA



JUDICIAL COUNCIL  
OF CALIFORNIA

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OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS

## **Juvenile Law Issues**

*Judicial Council, (Sutter Room)*

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|------------------|---|
| 1:55 – 2:20 p.m. | Federally Funded Dependency Representation<br><i>Audrey Fancy, Principal Managing Attorney, CFCC</i>  |
| 2:20 – 3:00 p.m. | Implementation of the Family First Prevention Services Act (FFPSA)<br><i>Sara Rogers, Branch Chief, CCR Branch, Department of Social Services &amp; Marymichael Miatovich Smrdeli, Attorney, CFCC</i> |
| 3:00 – 3:30 p.m. | Setting Committee Priorities for 2020<br><i>Hon. Jerilyn L. Borack, Cochair</i>   |
| 3:30 – 4:00 p.m. | Reconvene as Full Committee for 2020 Priorities and Next Steps  |

## [Court Appointed Dependency Counsel Title IV-E Match Program Update: November 2019](#)

### **2019 Revisions to Federal Policy for Dependency Counsel Representation**

Title IV-E of the Social Security Act enables states and counties to seek reimbursement from the federal government for eligible foster care related expenditures. Traditionally this has included social workers and their attorneys (typically county counsel). A recent revision of the Child Welfare Policy Manual (CWPM), extends the availability of title IV-E match funds to dependency counsel who provide legal representation to children in foster care and their parents. This significant federal funding development has the potential to provide up to an additional \$57 million to augment court appointed counsel services.

### **California Implementation Process**

Court appointed dependency counsel funds are administered by the Judicial Council pursuant to a workload-based methodology adopted in April 2016. Currently, 38 courts receive funding to contract with dependency counsel providers at the local level and 20 courts participate in the Dependency Representation, Administration, Funding, and Training (DRAFT) program where the JCC contracts directly with attorneys.

The federally designated agency, the California Department of Social Services (CDSS), and the Judicial Council worked together to develop a plan that will enable California dependency attorneys to access the IV-E match funds. As a result of that plan, the Budget Act of 2019 included \$34 million in ongoing federal funds to support court-appointed dependency counsel representing parents and children; an amount that is expected to increase to \$57million in 2020-2021 once the program is fully implemented. Judicial Council staff, in conjunction with its advisory bodies and in consultation with stakeholders, including judges; court administrators; and dependency counsel providers, are developing the plan to administer the title IV-E match program. The Judicial Council will administer the program statewide and directly contract with DRAFT providers. In other counties, the court may directly contract with providers (or delegate authority to the Judicial Council). Courts will work with Judicial Council staff to ensure providers adhere to record-keeping and invoice requirements for program participation.

### **Activities Eligible for Federal Funding Match**

This new federal funding opportunity, provided through title IV-E, is limited to the provision of legal services by attorneys who serve the child welfare population. California is an early adopter of this new program and we expect further clarification and refinement as the program develops. This federal funding covers representation provided by attorneys to children and their parents in foster care, including in-court work as well as out-of-court work such as investigations, discovery review, legal research and writing, and client meetings. The funding also extends to a proportionate share of related agency overhead and costs related to data collection and reporting. Clarification regarding eligible expenses is forthcoming from federal administrators. The JCC and CDSS anticipate the need for cautious claiming in the early stage of the program as the details are defined.

For additional questions and answers regarding the extent to which federal match funds may be used the following websites may be of assistance. Please note, these websites are maintained by non-profit organizations and may not maintain fidelity to California implementation:

<https://familyjusticeinitiative.org/iv-e-funding/>

<https://www.naccchildlaw.org/page/PolicyNews>

**FFPSA Information Sheet 1**  
Family First Prevention Services Act

[The Family First Prevention Services Act of 2018](#) (FFPSA), Public Law (P.L) 115-123 was signed into law February 9, 2018 as part of the Bipartisan Budget Act of 2018 and represents the biggest change to the structure of federal child welfare funding since the establishment of the Title IV-E program in 1980. FFPSA makes changes in three areas: preventative services, congregate care, and reauthorization of other services.

**Part I:** The central feature of FFPSA is the use of title IV-E federal dollars for time-limited (12-months) preventative services. Under FFPSA, states can spend federal money on three types of preventative services: mental health treatment, substance abuse treatment, and in-home skill-based programs. Eligibility for these services requires a showing that: 1) The parents or relatives are caring for a child(ren) who is a candidate for foster care<sup>1</sup> or the youth is in foster care and is pregnant or parenting; or, 2) A formal prevention plan is in place for the foster care candidate that includes a strategy for the child to remain home, or live with a relative caregiver temporarily or permanently.

**Court's Role in Implementing Part I:**

Currently, the court is required to make a finding at the detention hearing that reasonable efforts were made to prevent the need for removal. Once FFPSA is implemented, the court will be required to consider the degree, duration, and continuity of preventative services before making that finding. FFPSA's focus on the court's role in prevention is in harmony with state policy<sup>2</sup> that encourages judges to provide active leadership within the community to determine the needs of, and obtain and develop resources and services for, at-risk children and families.

**Part II:** A number of programs are impacted by FFPSA, however, the single greatest impact on the court will be had by doing away with time-limited reunification services.

**Court's Role in Implementing Part II:**

The main issue in Part II is the elimination of time-limited reunification. Depending on how California decides to implement this provision under FFPSA, this could lead to more court hearings and additional findings for the court to consider.

**Part IV:** FFPSA imposes additional limits on Congregate Care beyond those recently implemented by Continuum of Care Reform. Under FFPSA, title IV-E dollars may only be used to fund a congregate care placement for two weeks, unless: the youth is in a prenatal, postpartum, or parenting home to support teens; a supervised setting for a child 18 years of age or older; a high quality residential facility for youth who have been victims of human trafficking; or a qualified residential treatment program (QRTP). Children placed in a QRTP must be assessed within 30 days by a qualified individual to determine whether the needs of the child may be met in a lower level of care and a case-planning team meeting must be convened.

**Court's Role in Implementing Part IV:**

FFPSA enacts a new court hearing for youth in congregate care that requires the court, within 60 days of placement in a QRTP, to consider a qualified expert's assessment to determine whether the child's needs can be met in a foster family, and if not, determine whether the QRTP is the most appropriate level of care in the least restrictive environment. Further, at every status review hearing the case plan must include evidence that the child's continued QRTP placement is appropriate and meets the child's needs in the least restrictive placement.

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<sup>1</sup> A candidate for foster care is child who would have entered foster care, but for the preventative services being offered.

<sup>2</sup> See, [the California Standards of Judicial Administration, Standard 5.40](#).

Opinion from the Judicial Resources and Technical Assistance (JRTA) Project, not the Judicial Council. The information in this document is based on laws in effect at the time of publication (January 2019). Federal and state laws may change at any time. This is not legal advice. This information sheet may not be altered without the consent of the JRTA project.

# Family First Prevention Services Act

Family and Juvenile Law Advisory Committee Meeting  
February 24, 2020

# Agenda

- I. Overview of Family First Prevention Services Act
- II. FFPSA Implementation Overview
- III. Family First Transition Act
- IV. Progress on Implementation
  - i. Part I- Foster Care Prevention Services
    - i. Pregnant/parenting foster youth
  - ii. Part I- Family-Based Substance Use Residential Treatment Facilities
  - iii. Part IV- Placements in a Qualified Residential Treatment Program

# FFPSA Timeline 2018-2027



# Family First Transition Act (2020)

- Delays 50% spending requirement on Well-Supported Practices through the end of FFY 2021;
- Allows for Supported Practices to be temporarily counted toward the 50% spending requirement from FFY 22-23;
- Enhanced Funding for Transition Activities:
  - One-time Title IV-B allocation (\$500m)
  - Transition Dollars
    - 90% year 1; 75% year 2
    - Retroactive effective date
  - Reporting Requirements

## FFPSA: IV-E Prevention Services

Enables states to use Federal funds (Title IV-E) to provide enhanced support to children and families and **prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.**

# Eligibility for IV-E Prevention Services

Services may be provided to:

- A child who is a candidate for foster care
- A parent or kin caregiver of the child
- A child in foster care who is a pregnant (or expecting) or parenting foster youth

A “child who is a candidate for foster care” is defined as a child who is identified in a title IV-E prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care maintenance payments, title IV-E adoption assistance or title IV-E kinship guardianship assistance payments), but who can remain safely in the child's home or in a kinship placement as long as the title IV-E prevention services that are necessary to prevent the entry of the child into foster care are provided.

# IV-E Prevention Services

## Services:

- Mental health services
- Substance abuse prevention and treatment services
- In-home parent supports and skill-based programs
- *Up to 12 month period that begins on the date the child is identified in a prevention plan as a candidate or pregnant/parenting foster youth*
- *Provided by a qualified clinician*

Programs must be evidence based and trauma-informed, and include a well-designed rigorous evaluation strategy

- Promising practice; or
- Supported practice; or
- Well-supported practice

# Federal Prevention Services Clearinghouse

<https://preventionservices.abtsites.com/>

- Public call for Title IV-E Clearinghouse program submissions closed on October 31, 2019.

## Programs submitted by CDSS:

- EMDR
- Family-Centered Treatment
- Aggression Replacement Training
- Wraparound
- Effective Black Parenting
- Chicago Parent Program
- Family Acceptance Project
- Common Sense Parenting
- Transition to Independence
- Adolescent Community Reinforcement Approach
- Helping Women Recover and Beyond Trauma
- Matrix Model Intensive Outpatient Program

# Prevention Services Clearinghouse

Approved as of 2/10/2020

- \*Methadone Maintenance Therapy
- \*Trauma-Focused Cognitive Behavioral Therapy
- \*\*Families Facing the Future
- \*\*\*Functional Family Therapy
- \*\*\*Healthy Families America
- \*\*\*Motivational Interviewing
- \*\*\*Multisystemic Therapy
- \*\*\*Nurse-Family Partnership
- \*\*\*Parent-Child Interaction Therapy
- \*\*\*Parents as Teachers

*\*Promising*

*\*\*Supported*

*\*\*\*Well-Supported*

# Prevention Services Clearinghouse

## Up Next for Review

Attachment & Biobehavioral  
Catch-Up

Brief Strategic Family Therapy

Child Parent Psychotherapy

Interpersonal Psychotherapy

Multi-dimensional Family  
Therapy

Triple P - Positive Parenting  
Program

Family Behavior Therapy

Seeking Safety

The Seven Challenges

Homebuilders

Nurturing Parenting

SafeCare

Solution Based Casework

OH's Kinship Supports Intervention/  
ProtectOHIO

ProtectOHIO

YMCA Kinship Support Services,

YMCA San Diego

# Reductions to Congregate Care:

- ▶ Limits IV-E placements to 14-days *EXCEPT*:
  - *Qualified residential treatment program (QRTP) placements;*
  - a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
  - 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;
  - a supervised setting in which the child is living independently.

# Reductions to Congregate Care:

Qualified residential treatment program" or "QRTP" means a program that:

- ▶ Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the Qualified Individual Assessment

# Reductions to Congregate Care

QRTP's also must:

- ▶ Obtain accreditation from an approved organization
- ▶ Have registered or licensed nursing staff and other licensed clinical staff who:
  - provide care within the scope of their practice as defined by State law
  - are on-site according to the treatment model
  - are available 24 hours a day and 7 days a week
- ▶ Facilitate outreach and participation of family members as specified;
- ▶ Provides discharge planning and family-based aftercare support for at least 6 months post-discharge;

# Reductions to Congregate Care

QRTPs also must:

- ▶ 30-day assessment timeframes by a Qualified Individual
- ▶ Qualified Individual
- ▶ 60-day timeframe for court review
- ▶ At least 6 month aftercare services

# Qualified Individual

- ▶ A trained professional or licensed clinician who is not an employee of the title agency and who is not connected to, or affiliated with, any placement setting in which children are placed.
  - ▶ However, **the state may request a waiver** to the above affiliation restriction. The state must certify that the trained professionals or licensed clinicians will “maintain objectivity”
- ▶ Must assess a child placed in a QRTP within 30 days of the start of each placement in a QRTP (section 475A(c)(1)(A) of the Act).
- ▶ Must assess a child to determine the appropriateness of a placement in a QRTP using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary (sections 472(k)(4) and 475A(c) of the Act)
- ▶ Must conduct assessments in conjunction with the family of, and permanency team for, the child

# 60 day court review

- ▶ Within 60 days of the start of each placement in a QRTP, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, must, among other things, consider the assessment, determination, and documentation made by the qualified individual in approving the placement (section 475A(c)(2) of the Act).
- ▶ If the court does not approve the placement timely, i.e., within the 60-day timeframe, the title IV-E agency may only claim title IV-E FCMPs for the first 60 days of the placement in the QRTP (section 472(k)(1)(B) of the Act).

# Time limits on IV-E claims in QRTP

States may only claim Title IV-E for **30 days** after:

- ▶ a court disapproves such a placement under section 475A(c)(2); or
- ▶ a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 473(k)(3)(B) of the Act);
- ▶ the assessment required under section 475A(c)(1) determines that the QRTP is not appropriate;
- ▶ a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 473(k)(3)(B) of the Act).
- ▶ Requires specified case plan documentation for placements exceeding 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months)

# Continuing Discussions:

- ▶ QI framework and guidance
- ▶ DHCS and IMDs
- ▶ Statute language changes

Thank you!

Question mail box  
[FFPSA@dss.ca.gov](mailto:FFPSA@dss.ca.gov)