

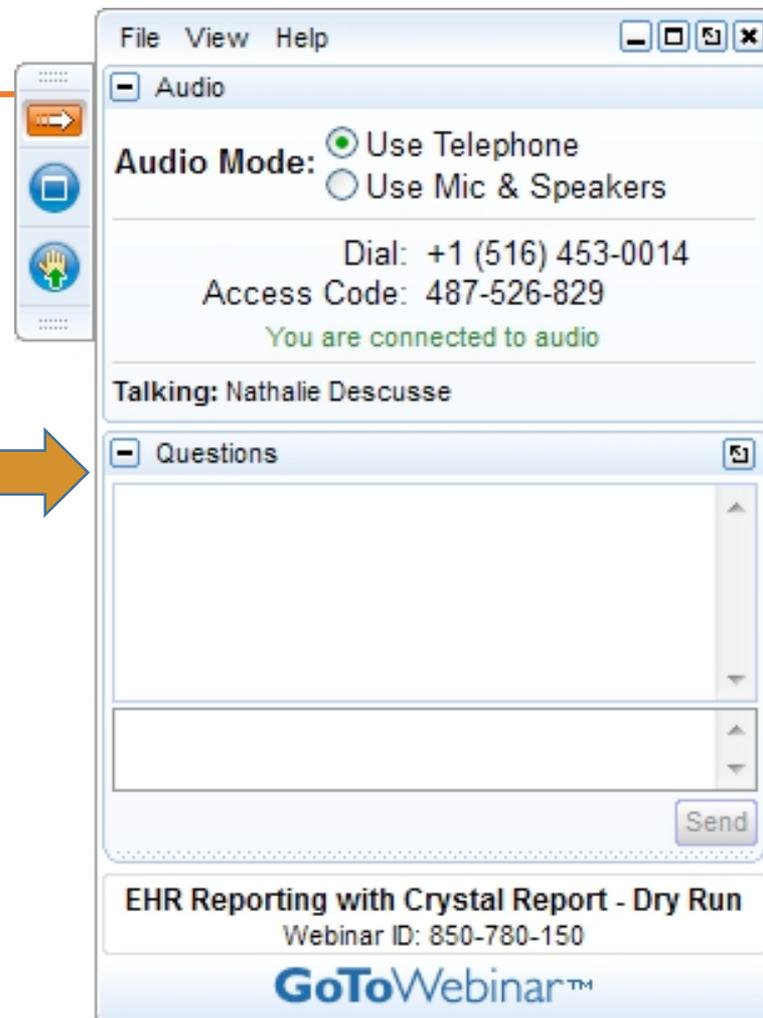
Why is California Concerned about the Family First Prevention Services Act?

Thursday, August 25, 2016
10:00 a.m. to 11:30 a.m. PST



How to Participate

- Call-in number: 1 (631) 992-3221; access code: 75-763-207
- To submit questions, click on the “Questions” panel, type your question, and click “Send” 
- Presentation materials will be posted at www.johnburtonfoundation.org



Today's Speakers

- Amy Lemley
John Burton Foundation
- Sean Hughes
Social Change Partners
- Angie Schwartz
Alliance for Children's Rights
- Cathy Senderling-McDonald
County Welfare Directors Association
- Greg Rose
California Department of Social Services

Evolution of the Family First Prevention Services Act

Sean Hughes, Social Change Partners

How We Got Here: The FFPSA Process

- Bill developed behind closed doors between House and Senate; text not released publicly until a few days before House markup
- Many national organizations committed their support for the bill based on draft summaries, not the final bill text- as a result many of the glaring problems with the bill were not identified until later
- CA began weighing in immediately, even before the House markup, but we were told amendments were impossible at that point
- After House passage, holds were placed in the Senate to slow down the process- again CA stakeholders put forth suggested amendments preferring to fix the bill, not obstruct it; again all amendment attempts were rebuffed

Problems with the Process

- This was a significant departure from traditional federal foster care policymaking process; far less transparent and little stakeholder engagement beyond DC
- “Take it or leave it” approach undermined ability to find consensus
- Political concerns and CBO score seem to be getting in the way of good policymaking; amendments being resisted not because there is no time left, but because they might change the cost of the bill
- Child welfare is a severely under-resourced system and identifying “offsets” within the system is incredibly difficult; by requiring offsets to come from within the system you can undermine the continuum of care

California's Calculation

- Four questions to determine if FFSPA will help us:
 1. Expand and better support family-based placements so youth can successfully “step down” from group care?
 2. Keep federal support for children currently in foster care?
 3. Expand and build upon current prevention efforts?
 4. Implement the reforms we are seeking in our system?
- We believe without amendments FFPSA will impede California's already ongoing and more comprehensive system reform efforts

Where Do We Go From Here?

- California opposes passage of the bill as written
- We have suggested a number of amendments that will better align it with the needs of children and families and would like to proactively support efforts to improve the bill
- We do not think it is too late to amend the bill; a number of child welfare reform bills have been passed in the last few months of the session in recent years
 - Fostering Connections Act of 2008 (Fall 2008)
 - Uninterrupted Scholars Act (January 2013)
 - Preventing Sex Trafficking & Strengthening Families (Fall 2014)

Evaluating Prevention Funding under FFPSA title i

Angie Schwartz, Alliance for Children's Rights

“Prevention” as Defined by FFPSA

- **Who is eligible:** Youth who are pregnant, parenting or at “imminent risk of entering foster care”
- **What services:** (1) Mental health & substance abuse prevention and treatment and (2) in-home parent skill-based programs
- **Where children can be living:**
 - In the home of the parent(s)
 - In the home of kin caregiver until child can be safely reunified
 - In the home of kin caregiver who child will live with permanently
- **How long:** Up to a 12-month period
- **Also:** Services must be “promising, supported, or well-supported” AND subject to “well-designed and rigorous evaluation”

PROBLEM: Many Families Meet “Imminent Risk” Standard Too Late

- Abuse/neglect must have already been substantiated
- State agency is already involved for the purpose of removing the child or satisfying “reasonable efforts” to avoid removal
 - *“A child may not be considered a candidate for foster care solely because the agency is involved with the child and his/her family”*
(Child Welfare Policy Manual 8.1D, Question 2)
- Children should have access to prevention services **before** abuse and neglect rises to a level that warrants removal
- Delaying to point of “imminent risk” will be too late for many

SOLUTION: Allow Prevention Services to Be Provided to Youth Earlier in a Case

- **Amend the Bill** to allow earlier prevention services for children and families who are involved with child welfare – not just those at imminent risk of removal from the home
- Goal should be to aim services at prevention of abuse/neglect – not just prevention of entry into foster care

PROBLEM: Prevention Services Are Too Narrow in Scope

- FFPSA allows federal funding only for mental health and substance abuse prevention and treatment services and in-home parent skill-based programs
- These services are aimed at bio family/parents – not generally helpful to kinship family caring that may be caring for the child

Demographics of Kinship Caregivers

- **Senior Citizens:** 15 – 20% of relative caregivers are over the age of 60
- **Fixed Incomes:** 39% of kinship households live below the federal poverty line
- **Disabled:** 38% of kinship caregivers have a limiting condition or disability
- **Limited training:** Kinship foster parents receive little, if any, advance preparation in assuming their role as caregivers.

Prevention Services Available Through FFPSA Do Not Support Kinship Families

Discussion Draft	FFPSA as Introduced
<p>Parenting skills training and parent education, including peer-to-peer mentoring and support groups for parents, primary caregivers, and potential kinship caregivers.</p>	<p>In-home parent skill-based programs for not more than a 12-month period ... that include parenting skills training, parent education, and individual and family counseling.</p>
<p>Individual, group, and family counseling, including intensive family preservation programs and trauma-informed care.</p>	<p>Mental health services provided by a qualified clinician for not more than a 12- month period</p>
<p>Services or assistance to address domestic violence, substance abuse, or inadequate housing as barriers to family preservation and reunification.</p>	<p>Substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12- month period</p>
<p>Mentoring, tutoring, recreational service, and health education for children and youth, including activities designed to facilitate access to and visitation of children by sibling, parents, and other kin.</p>	
<p>Crisis intervention services or assistance to stabilize families in times of crisis, such as transportation, clothing, household goods, homemaker services, assistance with housing and utility payments, child care, respite care, and recreational services, as well as similar goods and services to facilitate placement of children in kinship care.</p>	

Narrowly Defined Services are Not a Replacement for Expiring Waivers

- Prevention services funded by waivers included services that could support kin placements such as time-limited payments for case-specific goods and services (e.g., payments for rent, utilities, child care), legal assistance, and expedited reunification services
- When the waivers expire – the prevention services that states funded that were inclusive of kin families will have to be funded with state funds regardless of whether FFPSA passes

See - http://www.acf.hhs.gov/sites/default/files/cb/summary_demo2012.pdf

SOLUTION: Provide for Prevention Services that Support Caregiver & Reunification

- **Amend the bill** to provide for prevention services that support the **kinship caregiver AND reunification efforts**

PROBLEM: Receipt of Prevention Services Jeopardizes Ongoing IV-E Eligibility

- To be eligible for a federal foster care maintenance payment, a child *must have been residing in the home of removal* in the month of removal or one of the six months prior *42 U.S.C. § 672(a)(3)(A)(ii)(II)*.
- But, FFPSA allows a child to live OUTSIDE the home of removal in a kinship setting while receiving prevention services, for up to 12 months
- Should those (limited) services fail to avoid foster care, many children will no longer have a link to the home of removal and will not be federally eligible

How Would That Play Out in Real Life?

- Alex's father is in prison. His mother is addicted to heroin and is unable to care for him. CPS gets involved and locates Alex's grandmother, who lives on her Social Security benefits. Alex's grandmother wants to help her daughter and grandson and agrees to take in Alex while his mother receives in-patient substance abuse treatment and counseling paid for via FFPSA.
- After 7 months in rehab, Alex's mother relapses and is living on the streets. Alex's grandmother is desperate. She does not have the support or resources to continue caring for Alex informally, and asks CPS to open a formal foster care case.
- When the child welfare agency opens a foster care case so that Alex can enter foster care – **he is no longer eligible for federal foster care payments because of the six-month rule.**

SOLUTION: Ensure Ongoing Federal Eligibility if Child Enters Foster Care

- **Amend the bill** to allow a child to be eligible for federal foster care payments if they were residing in the home of removal *or* in the home of a specified relative – OR -
- **Amend the bill to require** that any child receiving preventative services in a kinship setting be subject to a Voluntary Placement Agreement pursuant to 42 U.S.C. § 672(e) because VPAs are not allowed to extend beyond 180 days without a judicial determination to effectuate a formal removal

PROBLEM: FFPSA Prevention Funds Difficult to Claim and Already Funded through Medicaid

- Two of the three prevention services available under FFPSA (mental health and substance abuse prevention and treatment) can already be funded through Medicaid
- FFPSA creates new barriers to accessing federal funds for these services

Prevention Services Under FFPSA Just As Difficult to Claim

- *“The bill would require at least half of all services to be in the well-supported category—the highest classification standard”* (other half would have to be “promising” or “supported”)
 - CBO estimates that beginning in 2020 **only 30% of spending on prevention services provided by states that exceed the MOE would be eligible for federal reimbursement**
 - CBO estimates that not until 2026 would the majority (95%) of prevention services be eligible for federal reimbursement
- Any prevention services that utilize federal funding must be evaluated using a “well-designed and rigorous evaluation strategy” and federal funds are **NOT** available for the evaluation

SOLUTIONS

Amend the Bill to:

- Provide federal funding for prevention services that aren't already funded through Medicaid (i.e., reduce duplication)
- Allow states to access federal funds to conduct required evaluations of programs

PROBLEM: Bill Delays Funding to Owed to States ... *for Prevention*

- FFPSA delays phase-in for delinking the Adoption Assistance Program is delayed by 2.5 years
- States were already required to reinvest savings from the delink in prevention services – without restriction as to the type of prevention these funds could be used for
- *CBO estimates that delaying federal reimbursements would reduce direct spending on adoption assistance payments by \$720 million over the 2017-2026 period.*

<https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr5456.pdf> (p. 6)

SOLUTION: Don't Rob Peter to Pay Paul

- **Amend the bill** to let states access AAP delink funds as planned while opening up Title IV-E for additional prevention services
- Use other available funding identified during the negotiation to provide new federal funds for prevention.

PROBLEM: Child-Specific Reporting

- FFPSA requires states to report annually on several data points for EACH child receiving prevention services via the Act
- Requiring states to report to this level of detail is highly onerous and unnecessary to monitor outcomes and determine success of the Act

SOLUTION: Allow Aggregate Data Reporting for Prevention Activities

- **Amend the bill** to require states to report in the aggregate on the identified data points for children who have received FFPSA prevention services
- This will ensure appropriate measurement and oversight by the federal government and other stakeholders, while avoiding onerous reporting requirements that have little benefit

PROBLEM: MOE Requirement Counts Spending Outside Foster Care Funding

- FFPSA requires states to meet a maintenance of effort requirement to access prevention funding
- However, the MOE is broadly defined to include spending in TANF, Title IV-B, the Social Services Block Grant, and “any other program” the state operates
- This onerous requirement will be difficult for many states to maintain over time, especially in the case of future economic downturns

SOLUTION: Adopt More Realistic, Less Onerous Definition for MOE

- **Amend the bill** to limit MOE to expenditures made within the child welfare financing system, not including state waiver expenditures
- This will avoid penalizing states that have moved forward with prevention programs by carving out funding from other areas of their budgets and allow more access to the new prevention services

Evaluating “quality residential treatment programs” As defined under FFPSA title ii

Cathy Senderling-McDonald, County Welfare Directors Association

PROBLEM: QRTP Placement Limitations

- FFPSA allows only children with “serious emotional or behavioral disorders or disturbances” to be placed in a qualified residential treatment program
- However, states such as CA are grappling with numerous populations with special needs that can best be met, at least temporarily, in a group setting such as:
 - Victims of commercial sexual exploitation
 - Children with severe medical needs
 - Children in juvenile justice for whom the alternative is a locked juvenile hall facility

SOLUTION: Allow Appropriate Use of QRTP Services for Additional Children

- **Amend the bill** to allow placement for children with “other documented behavioral or therapeutic needs” requiring the care provided by a QRTP.
- This will ensure that states have appropriate placements – while meeting other requirements for time frames, documentation and oversight – for children with needs beyond behavioral health.

PROBLEM: On-Site Nursing Staff

- FFPSA requires QRTPs to have “registered or licensed” nursing staff on site during business hours
- Colloquy offered by authors on the floor suggests that “registered or licensed” and “business hours” can be open to interpretation
- Labor politics in states like CA make it unlikely that “registered or licensed nursing staff” requirement can be met with anything other than actual nurses
- Not every program/population needs a nurse on-site

SOLUTION: Make Nursing Requirement Less Onerous

- **Amend the bill** to allow for staff who have been trained to provide necessary/emergency care under general direction of licensed or certified medical personnel to meet nursing requirement.
- **Amend the bill** to limit on-site staffing requirement to larger facilities, i.e., those with 15+ beds.

PROBLEM: 30-Day Assessment Requirement for QRTP Placements

- FFPSA requires all children placed in QRTP to be assessed by a qualified individual as needing the defined level of care within 30 days of placement
- If the assessment is not completed by day 30, all federal financial participation for the entire placement up to that point is forfeited
- This presumes an unreasonable level of availability of mental health professionals and an often unrealistic ability to assess children who many times have difficulty engaging and bonding

SOLUTION: Provide Extension of 30-day Requirement, if Documented

- **Amend the bill** to allow for assessment periods of longer than 30 days
 - Up to 60 days if documented in the child's case file, and allow federal funding to continue for that period
 - After 60 days, federal funding temporarily halted until assessment completed (i.e., not forever as in bill now)
- **Amend the bill** to provide at least 3 weeks of federal funding during initial 30 days
 - It is reasonable to assume states act in good faith when placing a child into a QRTP and embarking on assessment

PROBLEM: Federal Funding Could Not be used for THPP

- FFPSA prohibits the use of federal funding for the Transitional Housing Placement Program (THPP)
- THPP is a small, but effective program used in 13 counties in California
- Part of a continuum of placements to meet the individual needs of the youth.
- Positive outcomes include:
 - Keeping victims of child sexual exploitation safe
 - Helping homeless youth transition to foster care
 - Supporting transsexual youth

SOLUTION: Allow THPP and Other Innovative Placements

- **Amend the bill** to allow the use of federal funding for effective, alternative placements like THPP on a time-limited basis.

California's Vision for Reform

Greg Rose, California Department of Social Services

CCR Effort Significantly Alters Placement, Services for *All* Children

- Enacted in 2015 following broad, 2-year stakeholder effort, with additional legislation this year
- Encompasses nearly every aspect of child welfare:
 - Uses Child and Family Team approach for assessing placement options and service needs
 - Enhances approval and training process for caregivers
 - Revamps group homes, reduces length of stay, creates true continuum of services to get children to least restrictive placement option
 - Updates rate structure for all provider types – including kinship placements

FFPSA Inconsistent with CCR Efforts

- Despite praise for CCR from federal stakeholders, key elements of FFPSA are inconsistent with CCR
 - Requirement for a “Qualified Individual” outside of care team to assess child for placement in QRTP makes Child and Family Team process less meaningful, duplicative and confusing
 - Requirement for on site nursing “medicalizes” the program; the CA program model emphasizes integrated mental health services provided by clinical staff
 - Limitations on placement in congregate care to only children fails to recognize needs of other traumatized children, such as CSEC victims, or use of QRTPs as alternatives to locked facilities for children in juvenile justice
 - 30-day assessment requirement inconsistent with integrated mental health and other service planning envisioned by CCR

FFPSA Will Slow Progress Towards Comprehensive Reform

- FFA slows down our CCR implantation as it creates conflicts with our statute and uncertainty while HHS writes guidance.
- CA has already invested over \$200M in preparatory and capacity building work.

SOLUTION: Ensure Compatibility Between FFPSA, CCR

- States like California that have taken the lead on reforms that are, overall, consistent with FFPSA, should be praised, studied and enabled
- This can be accomplished through a combination of amendments to the bill and guidance from the Administration – but guidance alone cannot do it all

Questions We Asked - Revisited

- Will FFSPA help us:
 1. Expand and better support family-based placements so youth can successfully “step down” from group care?
 2. Keep federal support for children currently in foster care?
 3. Expand and build upon current prevention efforts?
 4. Implement the reforms we are seeking in our system?
- Answers to these questions impact all states – not just California

Questions and Comments

Please type your question or comment into the control panel.

This web seminar is being recorded; slides and audio will be posted at www.johnburtonfoundation.org