



Washington Courts and the Family First Prevention Services Act

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Family First

For judges – Family First addresses:

- A. Family First Overview of Federal child welfare financing of trauma informed, evidence based prevention services under Titled IV-E.
- B. Defines appropriate placements.
- C. Outline conditions for placement of children in Qualified Residential Treatment Programs (QRTP) and court involvement.
- D. CIP training, ICPC improvements, Chaffee Act extensions, and court involvement in state plans, and child fatality plans and programs.

Why Judges need to be know about how child welfare is financed:

- The Federal Government is seeking more accountability for better outcomes for children and families with new child welfare investments of federal funds.
- Courts have oversight responsibilities over the actions of the child protection agency in providing programs and services.

Family First changes encourages prevention and better outcomes

What this may mean for the court:

- More intentional reasonable efforts findings
- Greater emphasis on relative care vs. stranger care
- More confidence in child/family specific services
- Fewer cases approved for removal
- Faster reunifications with child and family supports
- Congregate care only in limited circumstances
- More efficient interstate placements

Judicial Leadership

On the bench:

- Meaningful *Reasonable Efforts* findings
- Oversight responsibilities clearly outlined
- Judicial reviews after a child death

Off the bench

- Partner with child protection agency in helping set standards required by Family First
- Ensure availability of appropriate services by convening community stakeholders



Prevention Services under FFPSA

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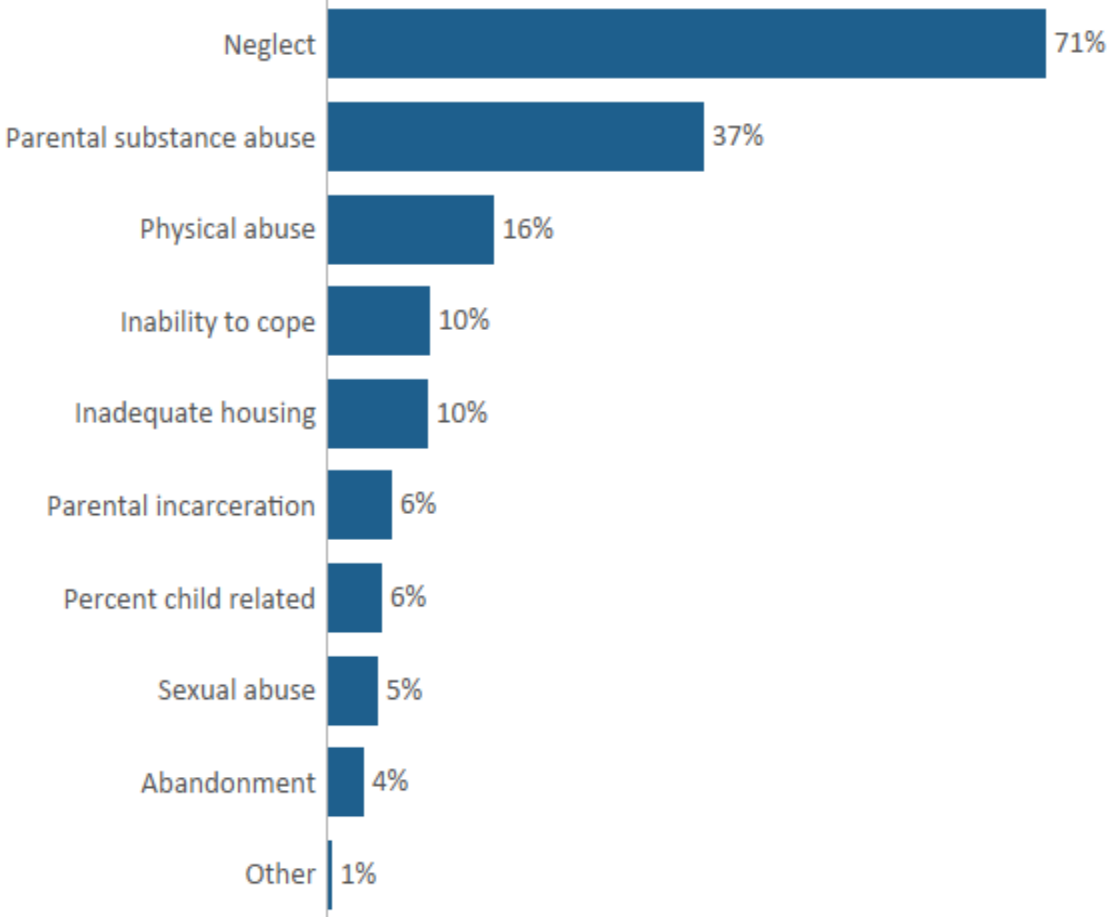
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Washington State: children exits from foster care

Percent of Washington children entering care for each removal reason*
(note: multiple reasons may be selected for a single child, Federal Fiscal Year 2016)



. What do we know about children who grow up in foster care? **The most expensive option for keeping children safe often results in poor long-term outcomes**

MENTAL AND PHYSICAL HEALTH

- 39.0% have at least one past-year mental health diagnosis
- 44.1% have had any substance abuse or dependence in their lifetime

EDUCATION AND TRAINING

- Less than half have a high school diploma (48.4%)

MARRIAGE, RELATIONSHIPS, AND CHILDREN

- 58.3% have given birth to or fathered a child
- 9.9% of those who have had a child have had a child placed in foster care

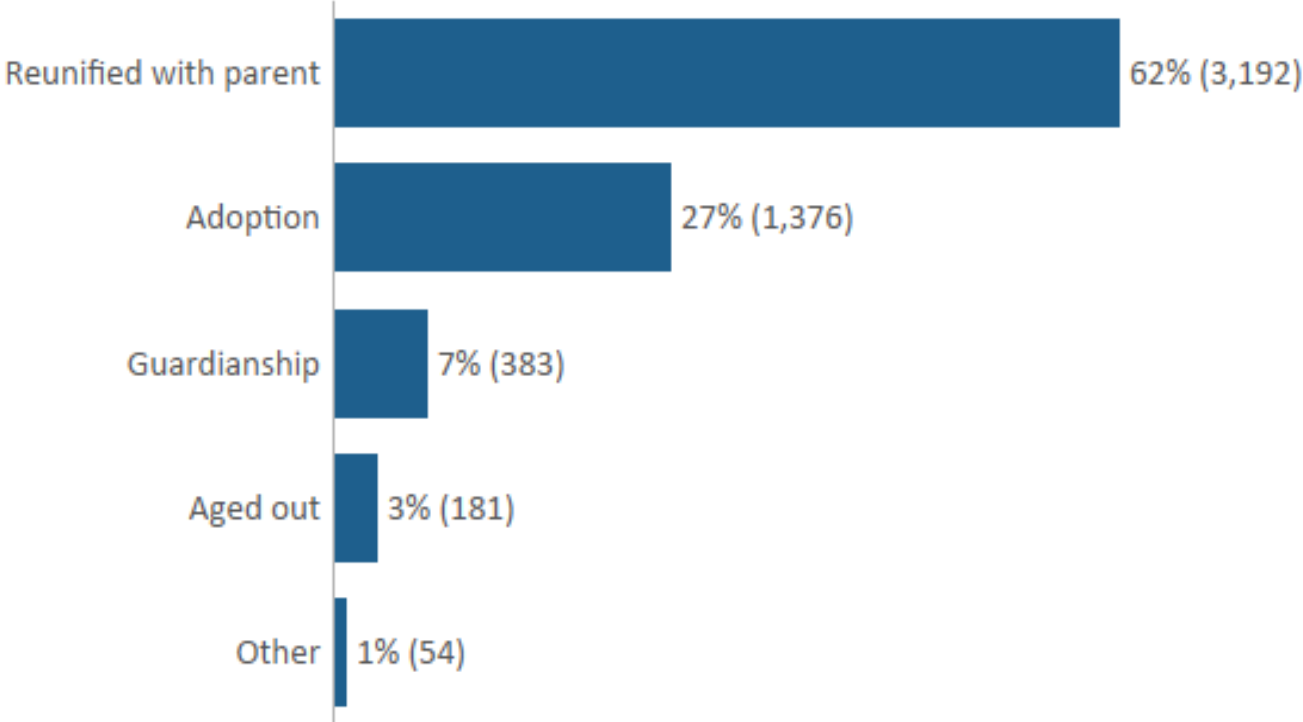
CRIMINAL JUSTICE INVOLVEMENT

- 68.0% of males and 40.5% of females have been arrested since leaving foster care

** Casey Family Programs Foster Youth Alumni Study*

Washington children exits from foster care

Percent (number) of Washington children exiting care by exit reason (Federal Fiscal Year 2016)



Child Welfare: What do we know is best for children and families?

- The goal in child welfare should be to ensure the safety, permanency and well-being of children ***and their families***.
- We know to support child well-being, it is important to intervene as early as possible.
- We know that the act of removing children from their families and homes creates emotional distress and trauma that should be avoided whenever possible.
- We know some children can be better served by remaining safely at home while their parents receive the community services and support they need.

Family First Prevention Services Act of 2018

The Family First Prevention Services Act was passed and signed into law (P.L. 115-123) as part of the Bipartisan Budget Act on February 9, 2018.

- New option for States and Tribes to claim Title IV-E funds for prevention activities as early as October 1, 2019
- New policy to ensure appropriate placements for children in foster care as early as October 1, 2019
- New funding and reauthorization of existing funding for child welfare programs including prevention funding, court funding, and specific substance abuse prevention grant funding

Child Welfare: Past and Future

History:

- Federal child welfare dollars focused **only on the child** for foster care after removal from their home

Family First and the future:

- Federal dollars now available for prevention services for **the child, the parent and the kinship caregiver**

New Title IV-E of the Social Security Act:

- **Federal Payments for Foster Care, Prevention and Permanency**

Pre-2018 federal law

Most federal \$\$ for foster care

Services only for child

Income test to qualify

No dedicated kinship navigator

No \$\$ for child placed with parent in residential treatment

Family First

New federal \$\$ for prevention

Prevention for parents & child

NO income test, just what at risk family needs

NEW 50% reimbursement for funding kinship navigators

12-months of federal \$\$ for such placements (Available Oct. 1, 2018)



New Funding for Prevention Activities

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New Funding for Prevention Services

- Beginning October 1, 2019, states and eligible tribes may receive open-ended entitlement funding for evidence-based prevention services for candidates for foster care.
- ***Who is a candidate for foster care?***
 - 1) Children at imminent risk of placement in foster care
 - 2) Pregnant and parenting youth in foster care
 - 3) Their parents or kinship caregivers also are eligible
 - ❖ No income test for eligibility.

New Funding for Prevention Services

- Prevention services eligible for up to 12 months of federal reimbursement:
 - *substance abuse prevention services*
 - *mental health services*
 - *in-home parenting skills*
- There is no limit on how many times a child parent, or kin caregiver is eligible services.
- Additional 12-months periods of services, including contiguous periods, are allowed if necessary

New Funding for Prevention Services

- Services must be evidence-based and trauma informed
- In-home services will be broadly defined, does not necessarily refer to the location where services are provided

Title IV-E Prevention Services Clearinghouse First Programs Selected for Review

Mental Health:

- Parent-Child Interaction Therapy
- Trauma Focused-Cognitive Behavioral Therapy
- Multisystemic Therapy
- Functional Family Therapy

Substance Abuse:

- Motivational Interviewing
- Multisystemic Therapy
- Families Facing the Future
- Methadone Maintenance Therapy

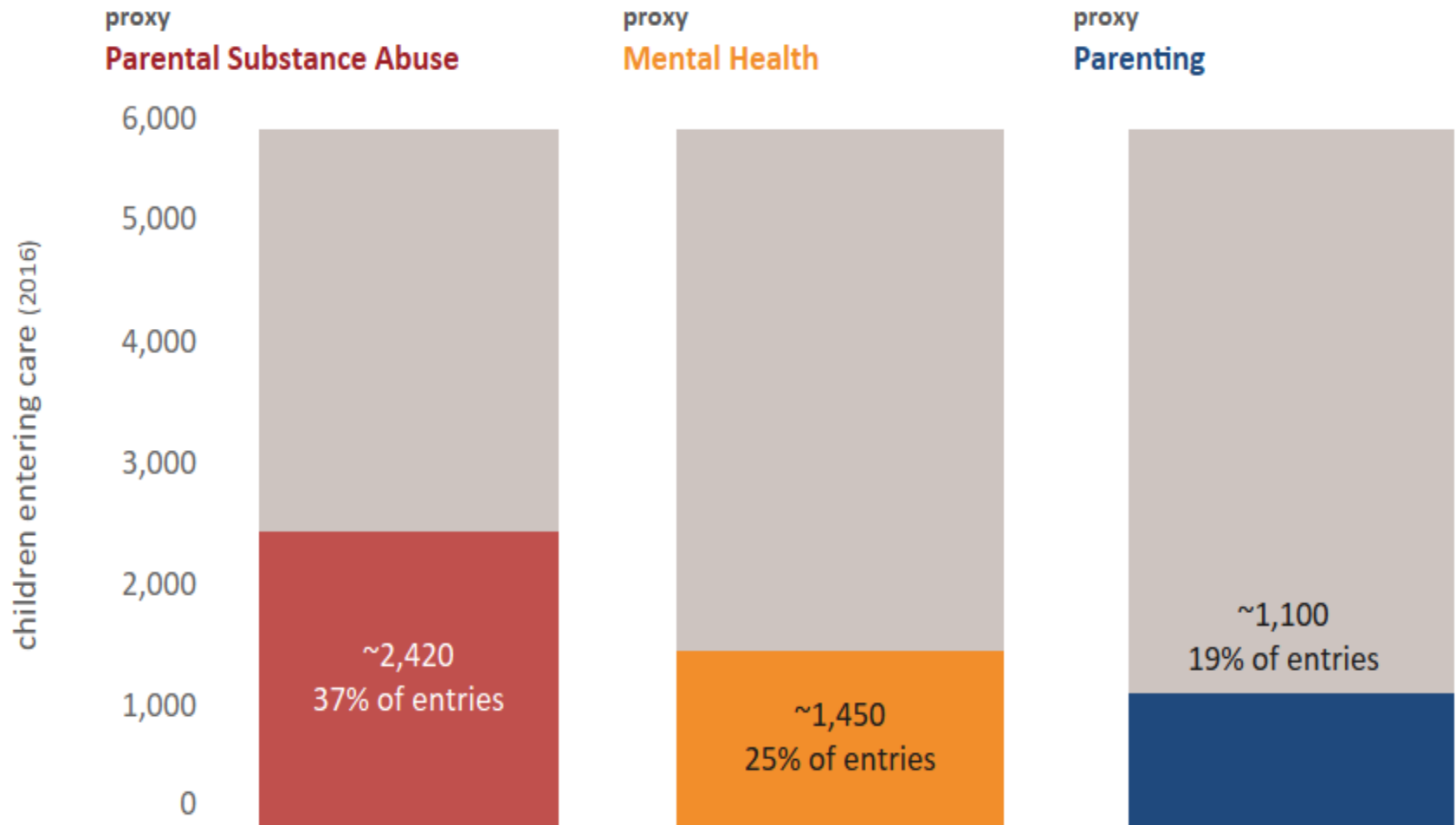
In-Home Parent Skill-Based:

- Nurse-Family Partnership
- Healthy Families America
- Parents as Teachers

Kinship Navigator Programs:

- Children's Home Society of New Jersey Kinship Navigator Model
- Children's Home Inc. Kinship Interdisciplinary Navigation Technologically-Advanced Model (KIN-Tech)

Washington Family First prevention areas...



Title IV-E 5 Year Prevention Plan

- A State can amend its plan any time in during the 5 years
- States are not required to provide services in all counties but are encouraged to provide services as broadly as possible
- A State may submit a plan which identifies only services for eligible populations of an Indian tribe

The Plan must include:

service descriptions

evaluation strategy

monitoring of child safety

consultation and coordination with mental health and substance abuse treatment

workforce support and training

assurance on prevention program reporting

New Funding for Prevention Activities

Federal reimbursement rates for prevention activities are:

- Beginning October 1, 2019 through September 30, 2026, Federal Financial Participation (FFP) is 50%.
- As of October 1, 2026, FFP is the state's FMAP (Medicaid) rate, Washington State's is 50%
- At least 50% of the spending in every fiscal year must be for well-supported practice
- States who opt to administer a prevention program also may claim Title IV-E reimbursement for administrative costs at 50% and training costs at 50%.
 - *As with the prevention services, these costs are not related to the income eligibility of the child or their family.*

Maintenance of Effort Requirement

The law requires that states maintain the FFY 2014 level of spending (state dollars and federal dollars other than IV-E) on the prevention services identified in Family First.

“State foster care prevention expenditures” must include only those prevention services or activities that have been approved by the Title IV-E Prevention Services Clearinghouse at the time the state submits its initial five-year prevention plan.

The MOE is only calculated once. The initial calculation will qualify for future years

Additional Select Items to Promote Safety, Permanency and Well-being

- Kinship Navigators: Provides Title IV-E support for evidence-based kinship navigator programs at 50%. This began October 1, 2018.
- Foster parent licensing standards. Requires HHS to identify model foster parent licensing standards. By April 1, 2019, states have to identify the licensing standards they implement, if state standards differ from the model standards, and why they differ.

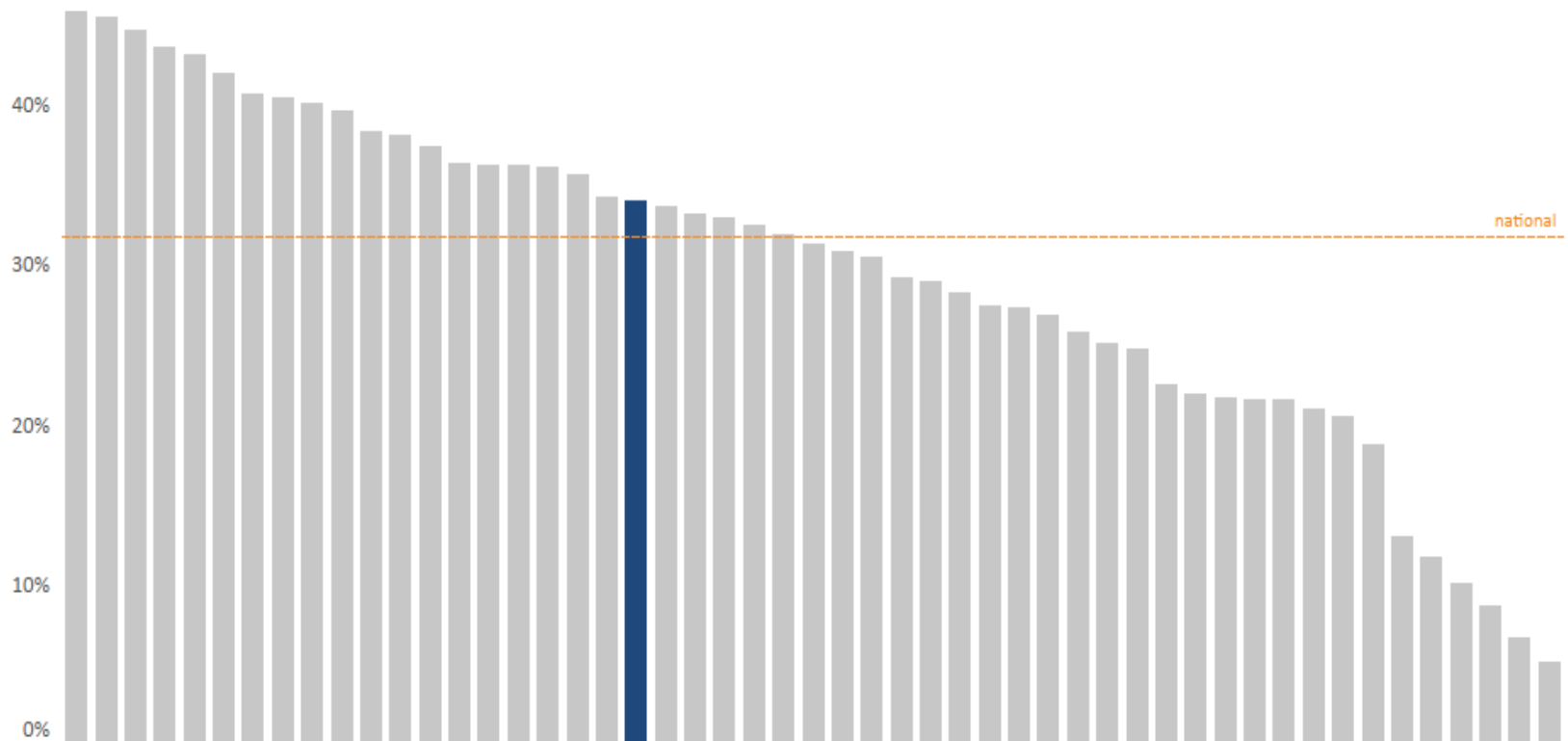
Washington State: Kinship

selected state blue

Percent of children in kinship care

of all children in care on 9/30/2018, what percent were placed with a relative?

50%



What do we know about children placed with kin?

Compared to children in foster care, children placed with family are:

- More likely to report liking those with whom they live
- More likely to report wanting their current placement to be their permanent home
- More likely to report that they “always felt loved”
- More likely to report more positive perceptions of their placements and have fewer behavioral problems
- Less likely to report having tried to leave or run away and falling into trafficking and other serious detriments

Source: Generations United: Children Thrive in Grandfamilies 2016



Ensuring Appropriate Placements in Foster Care

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Reasonable Efforts

- For decades, juvenile courts have been required to make Reasonable Efforts (RE) findings:
 - RE findings required since the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)
 - Reaffirmed and expanded in the 1997 Adoption and Safe Families Act (P.L. 105-77)
 - Unless the court finds RE made by the agency, the case is not eligible for federal reimbursement under Title IV-E.

Example

12 year old Mary was punished by her father for receiving poor grades in school. The belt left cuts and bruises. This was not the first time.

It is suspected that Mary's mother has a drinking problem, though no specific episodes of over-imbibing have been documented.

The child welfare agency interviewed Mary and determined that she should be removed.

Does the judge have enough information to rule on RE?

If not, what else is needed?

Reasonable efforts to prevent removal

- RE not addressed in FFPSA; so refer back to ASFA.
- AFSA requires RE findings (except for aggravated circumstances):
 - Shall be made to preserve and reunify the family
 - Shall be made prior to the placement of a child in foster care
 - To prevent or eliminate the need for removal from the child's home

(42 U.S.C. s 672(a)(1); 45 C.F.R. s 1356.21(b)(1))

What judges need to know

- What is the risk of harm in the child's home?
- Why can't the child be kept safe in the child's home?
- What services were offered to the family?
- What services were actually provided?
- If needed services were not provided or offered, why?
- Did the agency make RE to identify, locate, and make available needed services?
- What services are identified in the child's prevention plan?

If a child has been removed, court must make a finding whether RE have been made to finalize a permanency plan within 12 months—reunification or another permanency option

- New under FFPSA:
 - If funding is available, a child returning home also will now have access to 15-months of family reunification services beginning on the date the child returns home.
 - There are specific requirements for program components for children in QRTP care settings

Judicial Leadership

Judicial officer may convene partners in collaborative effort to assess community services to determine if preventive services are

- In place and available (and evolving)
- Evidence-based
- Designed to meet the needs of families and caregivers and
- To determine how this information will be communicated to judges, lawyers, etc.



QRTPS and Judicial Oversight

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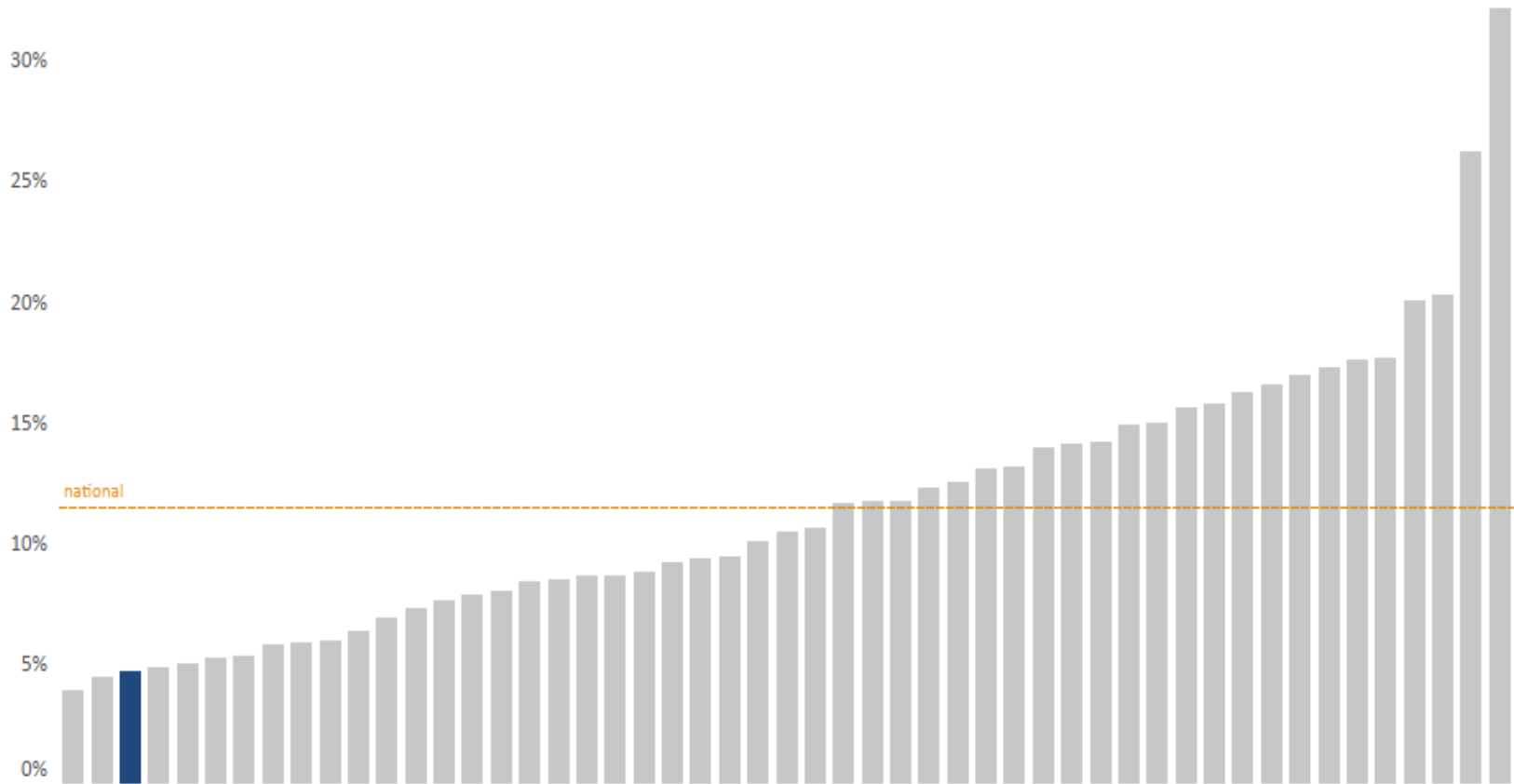
What do judges need to know about QRTP?



Washington State: congregate care

Percent of children in congregate care

of all children in care on 9/30/2018, what percent were placed in a group home or residential treatment facility?



Court Oversight of Placements under Family First

Review: Beginning as early as 10/1/19, after 2 weeks in care, Title IV-E funds can **only** be used to support:

- Foster Family Homes (now defined; less than 6 foster children but with exceptions)
- Facilities for pregnant and parenting youth
- Supervised independent living for youth 18 and over
- Specialized placements for victims or potential victims of sex trafficking
- Family-based residential substance abuse treatment facilities
- Qualified Residential Treatment Programs (QRTP)



Child Welfare – Placements

Pre-2018 federal law

Family First

Family foster care

Defines foster family

Independent Living over 18+

Same

Placements for pregnant & parenting teens

Same

Placements for victims & potential victims of sex trafficking

Same

Child Welfare – Placements

Pre-2018 federal law

Limited oversight of
congregate care
placements

Family First

New definition of Qualified
Residential Treatment
Program (QRTP)

- * assessment in 30 days
- * trauma informed
- * family engagement
- * nurse and clinician base on model
- * aftercare supports
- * accreditation
- * **Judicial oversight**

Courts role in QRTPs

As a condition of eligibility for Court Improvement Program funds, this section would require a highest state court to provide training for judges, attorneys and other relevant legal personnel on federal child welfare policies and payment limitations with respect to placement of foster children in settings other than foster family homes.

Other provisions in Title II—the training requirement under the Court Improvement Program; protocols to prevent inappropriate diagnoses;

Committee Report 114-628 House of Representatives

QRTP is a program that:

- (1) has a trauma-informed treatment model designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances, and can implement the necessary treatment identified in the child's assessment;
- (2) has registered or licensed nursing staff and other licensed clinical staff who can provide care, are on-site consistent with the treatment model, and available 24/7, but need not be QRTP employees;
- (3) 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 HHS

QRTP (cont'd)

(4) Facilitates family participation in the child's treatment program, if in the child's best interests;

(5) facilitates, and documents, family outreach, and maintains contact info for child's bio family and fictive kin;

(6) documents how the child's family is integrated into child's treatment, including post-discharge, and how sibling connections are maintained;

(7) provides discharge planning and family-based aftercare supports for at least 6 months post-discharge.



QRTP Assessment

Within 30 days of being placed in a QRTP,

A “Qualified Individual” (trained professional or licensed clinician who is not a state employee or affiliated with any placement setting...(unless waived by HHS if the State assures “objectivity of the assessment))



QRTP Assessment (cont'd)

- Must assess the child's strengths and needs using age-appropriate, evidence-based, validated, functional assessment tool to determine if child's needs can be met with family members, in a foster family home, or in one of other approved settings (i.e., independent living facility or facilities for pregnant or parenting youth) consistent with the documented short- and long-terms mental and behavioral health goals of the child and the child's permanency plan. (HHS to publish guidance on valid assessment tools).



QRTP Assessment (cont'd)

- Assessment must be conducted in conjunction with the child's family and permanency team, which shall include all appropriate bio family members, relatives, & fictive kin and, as appropriate, professionals (teachers, medical & mental health providers, or clergy) who are a resource for the family. And if child 14 or older, the child can select two people to be on his/her permanency team.

QRTP Assessment (cont'd)

State has to document in the case plan:

- its efforts to identify and include a family and permanency team for the child, contact in,
- evidence that meetings were held at a time convenient for the family and team,
- evidence that parent provided input if reunification is the goal,
- evidence that the assessment was made in conjunction with the team,
- the placement preference of the team recognizing the importance of keeping siblings together, and why the preferences might be different than the recommendations of the Qualified Individual.

If QRTP is appropriate, the Qualified Individual must document why the child's needs cannot be met by family or in a foster family, why QRTP will provide the most effective and appropriate level of care in the least restrictive environment and how it is consistent with short- and long-term goals of the child.

If QRTP is not appropriate, state has 30 days to transition the child to a placement that can better address the child's needs. If it takes longer or state chooses to continue the placement, the state won't get federal foster care maintenance funding but foster care administrative funding will continue.

Juvenile Court, within 60 days of placement in QRTP, must independently review the QRTP placement, and approve or disapprove the placement.

- Must consider the assessment, determination and documentation made by the Qualified Individual who conducted the assessment.
- Shall determine whether the needs of the child can be met in a foster family home, or if not, whether QRTP placement provides the child the most effective and appropriate level of care in the least restrictive environment and is consistent with the short- and long-term goals of the child.
- Should be done in a court hearing

Court must also review child's status in QRTP at every status review and permanency hearing, including –

- the ongoing assessment of the strengths and needs of the child and the child's needs cannot be met in a foster family home
- the QRTP provides the most effective and appropriate level of care for the child
- documents the specific treatment or service needs that will be met for the child in the QRTP; and
- the efforts made to prepare the child to return home or be placed with a relative, legal guardian, or adoptive family, or in a foster home.

Example:

Joey, aged 15, has been in care since he was four years old. His mother abandoned him after the first year. Joey has been in the same residential treatment center for 3 years and seems to be maintaining acceptable behaviors there. He attends school at the facility. His case comes to your court for a permanency review. The caseworker announces that she has ordered an assessment 90 days ago, but the assessor is backed up and won't have a report until another 20 days.

What can you, the assigned judge, do?



Court Participation in State Prevention Plans, ICPC updates, and Legal training

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Development of a Statewide Plan to Prevent Child Abuse and Neglect Fatalities

Each state is required to document in their state plan for 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 from relevant organizations; and
- How the state is developing 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.
- *(42 U.S.C. 622 (b) (19) Social Security Act)*

Tracking Child Maltreatment Fatalities

- Since 2012, states have been required to identify the sources of information they used to compile data on child maltreatment deaths.
- As amended, the states will now be required to document the steps it takes to track and prevent child maltreatment deaths including
- How it compiles complete and accurate information on child maltreatment fatalities; and how it has developed and implemented a comprehensive, statewide plan to prevent child maltreatment fatalities, that involves and engages public health and law enforcement agencies, the courts and other relevant public and private agency partners in the state.

Committee Report recommendations for components of state plans:

1. *Data:*

- *use of 3 or more data sources,*
- *Identification of ZIP codes or census tracts with high rates of child maltreatment fatalities.*

2. *Partners in the plan*

3. *Clear interagency roles and responsibilities*

4. *Recommendations for fatality reviews and life threatening injury reviews*

Committee Report 114-628 House of Representatives

Committee notes provide:

“This plan should be shared with the state court and included in training programs for state court improvement directors using funds already provided under the Court Improvement Program.”

Committee Report 114-628 House of Representatives

Changes to ICPC procedures:

- Grants to states to develop an electronic interstate case-processing system for the exchange of data and documents to expedite the placement of children in foster, guardianship, or adoptive homes across State lines.
- Deadline: Oct. 1, 2027
- \$5 million available for grants in FY2018 and money is available until FY2022

Purposes and Goals:

- To reduce the time it takes for a child to be provided with a safe and appropriate permanent living arrangement across State lines;
- Improving administrative processes and reducing costs in the foster care system, and
- The secure exchange of relevant case files and other necessary materials in real time, and timely communications and placement decisions regarding interstate placements of children.

Training for state judges, attorneys, and other legal personnel in child welfare cases

The eligibility criteria for receiving CIP grant funds is amended to include a requirement to provide training for judges, attorneys, and other legal personnel in child welfare cases in federal child welfare policies and payment limitations with respect to children in foster care who are placed in settings that are not foster family homes.

It is the responsibility of the highest state court to insure that the training occurs.

New Q&A: Child Welfare Policy Manual

Question: May a Title IV-E agency claim Title IV-E administrative costs for attorneys to provide legal representation for the Title IV-E agency, a candidate for Title IV-E foster care or a Title IV-E eligible child in foster care and the child's parents to prepare for and participate in all stages of foster care related legal proceedings?

Answer: Yes. The statute at section 474(a)(3) of the Act and regulations at 45 CFR 1356.60(c) specify that:

Federal financial participation (FFP) is available at the rate of 50% for administrative expenditures necessary for the proper and efficient administration of the Title IV-E plan. The Title IV-E agency's representation in judicial determinations continues to be an allowable administrative cost.

Updated on December 20, 2018

Recap: Family First Opportunities

- New option for States and Tribes to claim Title IV-E funds for evidence-based prevention activities
- New policy to ensure appropriate placements for children in foster care
- New supports for children placed with parents in family based residential treatment facilities
- New supports for evidence-based kinship navigators
- Reauthorization of numerous child welfare funding streams under Title IV-B and updates to the John H. Chafee Foster Care Program for Successful Transition to Adulthood



"And now I'll open up the floor to softballs."



THANKS FOR LISTENING

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