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Children, Families, Health, and Human Services Interim Committee  
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MONTANA LEGISLATIVE  
SERVICES DIVISION

## HJR 48/49: CHILD PROTECTIVE SERVICES FAMILY FIRST PREVENTION SERVICES ACT

### BACKGROUND

The Family First Prevention Services Act, passed by Congress in 2018, seeks to fundamentally change the nation's approach to child welfare services by:

- funding in-home prevention services and treatment services to keep children who are at risk of foster care at home with their families, instead; and
- when children must be removed from the home, prioritizing the use of kinship care or family foster homes over larger, institutionalized foster-care settings.

The law accomplishes those goals by expanding the way that current federal funding for child welfare services can be used and by placing stricter requirements on congregate care settings.

This briefing paper highlights some of the key aspects of the law.

### REDIRECTING IV-E FUNDING

Title IV-E funding is the primary source of funding for child welfare efforts. This open-ended source of funds currently can be used to:

- pay for foster care placements for certain low-income children;
- assist with the cost of adoptions and kinship guardianships;
- pay for administrative expenses of state child welfare agencies, including costs related to training workers and foster parents and recruiting foster parents; and
- provide services for youth who are aging out of the foster care system.

The Family First Prevention Services Act allows for a new use of the money -- to pay for services that will keep families together and in their homes.

The table on the following page shows some of the key differences in how states that do and don't implement the new law can use IV-E funding.

| FFPSA Not Implemented  | FFPSA Implemented   |
|--|---|
| Funding is used primarily for foster care placements   | Funding may be used for up to 12 months of in-home prevention and treatment services  |
| Funds pay only for services provided to the child  | Funding may be used for services to parents, child, and kinship caregivers  |
| Foster care payments are limited to certain low-income children  | Funding may pay for prevention services to any child at risk of foster care and the child's parents or kinship caregivers, regardless of income |
| Funds may be used to pay for congregate foster care setting  | Funds may be used to pay for congregate care only in certain situations and only if the setting meets certain requirements                      |
| Funds can't be used to place a child with a parent who is in a residential substance abuse treatment program | Funds may be used for up to 12 months of payments allowed for those placements  |

The federal government will pay for 50% of the costs of prevention services until Sept. 30, 2026. After that, Montana's federal payment will increase to the Medicaid matching rate in place at that time. Currently, the federal government pays about 65% of the cost of Medicaid claims in Montana.

However, under the new law, states may access the new prevention money only for certain services and only if congregate foster care settings meet new, more stringent requirements and oversight measures.

## REQUIREMENTS FOR PREVENTION FUNDING

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Federal IV-E funding of in-home prevention services and mental health and substance use disorder treatment services will be limited to services that:

- are trauma-informed; and
- use an evidence-based practice that has been found to be a promising, supported, or well-supported practice.

In-home prevention programs must focus on parent skills and may include parenting skills, parent education, and individual and family counseling. Mental health and substance abuse treatment services must be provided by a qualified clinician.

The federal government is still in the process of evaluating which programs will meet the standards for evidence-based practices and qualify for funding. But the law requires that the program has a book, manual, or other material that specifies its components and how they should be administered. The outcome measures of the program also must be reliable and valid. States also are required to continuously monitor how the practices are being carried out to ensure that providers are staying true to the practice model and to determine whether the outcomes are achieved.

States also must describe how they will train caseworkers to assess child and family needs and match the families with the appropriate prevention and treatment services. States will need to collect and report on the specific services provided to each child receiving prevention services, as well as report on outcomes.

And in order to access the new funding, states must provide matching funds to help pay for the prevention and treatment services.

## REQUIREMENTS FOR USE OF CONGREGATE CARE

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The Family First Act prioritizes foster care provided by relatives or in small, foster family homes by generally limiting payments for care provided in settings that serves more than six children, except under certain circumstances. Most facilities with more than six and up to 25 children must meet the standards established by the law for a Qualified Residential Treatment Program, or QRTP. The programs must:

- use a trauma-informed model designed to address the needs of children with serious emotional disturbance or behavioral disorders;
- have registered or licensed nursing and other licensed clinical staff available at all times and on site as required by the treatment model;
- facilitate participation of family members into the child's treatment program;
- provide family-based aftercare support for at least 6 months after discharge; and
- be licensed and accredited by an approved accrediting entity.

If a child is placed in a QRTP, a qualified individual not affiliated with the program or the state must assess the child's strengths and needs and determine that the setting is the least restrictive environment that meets the child's needs. If the assessment is not done within 30 days of placement, the state will lose federal reimbursement for the maintenance costs of the placement but can still receive Title IV-E funding for administrative and training costs during the child's placement.

A court also could determine that the placement is inappropriate, resulting in a subsequent loss of federal funding if the child is not moved to a more appropriate setting after 30 additional days. The law also requires periodic court reviews of continued QRTP placements to ensure that the child still needs that level of care.

## NEW USES FOR IV-B FUNDING

The Family First Act made changes to the use of Title IV-B funds for family preservation services.

The law removed a time limit on use of Title IV-B funding for services designed to reunify families when children have been removed. Previously, the services were limited to 15 months from the time of removal. The law instead allows the IV-B funds to be used for up to 15 months after children have been reunified with their parents.

## STATUS OF IMPLEMENTATION

The act was to go into effect Oct. 1, 2019, but states had the option of delaying implementation for 2 years in order to prepare for the significant changes it allows. Montana, along with most other states, chose to delay implementation but is working on a plan and taking steps to put the law into effect. The Department of Public Health and Human Services is required under House Bill 604 (2019) to develop a strategic plan for implementing the act. The agency must present the plan to the Children, Families, Health, and Human Services Interim Committee by the end of the interim.

In addition, the U.S. Department of Health and Human Services is still working on guidance and rules for various portions of the changes -- including the list of evidence-based prevention programs that will be eligible for the new IV-E funding.

## FAMILY FIRST TRANSITION ACT

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In late December, Congress passed a year-end spending bill that included the Family First Transition Act. That law modifies some aspects of the Family First Prevention Services Act and provides funding to help states as they revamp their child welfare services to meet the requirements of the law.

The Congressional Research Service estimates that Montana will receive about \$1.7 million to help it take the steps needed to comply with the law.

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### Sources

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- "The Family First Prevention Services Act: Historic Reforms to the Child Welfare System will Improve Outcomes for Vulnerable Children." *Children's Defense Fund*. February 2018.
- "Family First Prevention Services Act Overview." *National Conference for State Legislatures*. June 27, 2019.
- "Family First Prevention Services Act Section by Section." *First Focus Campaign for Children*. March 2018.
- Information from Susan Robison, Director of State Relations, Public Policy, Casey Family Programs. Dec. 27, 2019.