



October 16, 2017

The Honorable Kevin McCarthy, Majority Leader
United States House of Representatives
H-107, The Capitol
Washington, D.C. 20515



Dear Leader McCarthy,

We write to outline our significant, yet easily resolvable, concerns with the Family First Prevention Services Act (FFPSA). We also urge you to support its amendment prior to passage in the U.S. House of Representatives, whether offered as a stand-alone bill or as part of a broader legislative package, to ensure that it helps, rather than harms, children and families in California.

Over the past 18 months there have been several attempts to advance the bill, including a brief attempt to include it in the 21st Century CURES Act, and its reintroduction this year as H.R. 253. Each version of the bill has contained the same few critical flaws that make it unacceptable to our broad coalition of California advocates and public and private agencies. While there are many provisions of the original bill that we would support, the package requires just the few, targeted amendments we have drafted and attached to this letter to ensure that it would not harm children and families nor undermine California's multi-year efforts to better meet child and family needs.

Enclosed for your review is an amendment package that would make this well-intentioned bill workable for our State. In a nutshell, these amendments: 1) avoid the wholly unnecessary medicalization of the foster care system, unless such services are necessary to meet the needs of particular youth; 2) ensure that the established timeframes for the appropriate assessment of child and family strengths and needs does not jeopardize federal funding; and 3) maximize the ability to place children in home-based family care settings with relatives and other known adults. Making these amendments will protect California's last three years of unanimous legislative changes to our foster care system that support families. These amendments also are necessary to protect California's quarter-billion dollars of new investment in the system, and ensure hundreds of millions in federal funding isn't inadvertently lost to the detriment of children and families.



CHILDREN NOW



California is a leader in supporting relative caregivers and in seeking new ways to reform the use of congregate care as a time-limited part of an overall, comprehensive continuum of care for children who have been abused and neglected. We seek your assistance in amending the bill to align it with the needs of children and families in California, and respectfully request your commitment that no version of the bill will pass the House until these amendments have been made. We appreciate your ongoing leadership and commitment to supporting the children and families of the State of California. Thank you for considering our request, and please feel free to contact any of us with questions or concerns.

Sincerely,

Los Angeles County
Los Angeles County, Department of Children and Family Services
City and County of San Francisco
California State Association of Counties
County Welfare Directors Association of California
Chief Probation Officers of California
Alliance for Children's Rights
Association of Community Human Services Agencies
California Alliance of Child and Family Services
California CASA
Children Now
California Alliance of Caregivers
East Bay Children's Law Offices
Grandparents as Parents
John Burton Advocates for Youth
Law Foundation of Silicon Valley
Legal Services for Children
Public Counsel
Social Change Partners
Voices

cc: California Congressional delegation

Statutory Fixes to Issues in Family First Prevention Services Act (FFPSA)

Based off of language amended into CURES Act of 2016

Title I. Purpose

Sec XXXXX. The purpose of this title is to enable States to use Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent **abuse and neglect leading to** foster care placements through the provision of **preventive services, including but not limited to,** mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.

Title I. List of Eligible Services

SEC. XXXX. FOSTER CARE PREVENTION SERVICES AND PROGRAMS.

(a) State Option.—Section 471 of the Social Security Act (42 U.S.C. 671) is amended—
(1) in subsection (a)(1), by striking “and” and all that follows through the semicolon and inserting “, adoption assistance in accordance with section 473, and, at the option of the State, services or programs specified in subsection (e)(1) of this section for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children, in accordance with the requirements of that subsection;”; and

(2) by adding at the end the following:

“(e) Prevention And Family Services And Programs.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary may make a payment to a State for providing the following services or programs for a child described in paragraph (2) and the parents or kin caregivers of the child when the need of the child, such a parent, or such a caregiver for the services or programs are directly related to the safety, permanence, or well-being of the child or to preventing the child from entering foster care:

“(A) MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES.—Mental health and substance abuse prevention and treatment services provided by a qualified clinician for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child.

“(B) IN-HOME PARENT SKILL-BASED PROGRAMS.—In-home parent skill-based programs for not more than a 12-month period that begins on any date described in paragraph (3) with respect to the child and that include parenting skills training, parent education, **intensive family preservation programs,** and individual and family counseling.

“(C) BARRIER REDUCTION SERVICES. – Services or assistance to address domestic violence or inadequate housing as barriers to family preservation and reunification, which may include but not be limited to crisis intervention services.

Title I. Eligibility for Prevention Services While Living in the Home of a Relative

Amend Section 471(a)(2)(A) of the Social Security Act as follows:

“(A) A child who is a candidate for foster care (as defined in section 475(13)) but can remain safely at home with receipt of services or programs specified in paragraph (1) or in a kinship placement **through a Voluntary Placement Agreement pursuant to Section 472(e) – (g)** with receipt of services or programs specified in paragraph (1)

Amend Section 475(b) of the Social Security Act as follows:

“(13) The term ‘child who is a candidate for foster care’ means, a child who is identified in a prevention plan under section 471(e)(4)(A) as being at **imminent substantial** risk of **suffering abuse or neglect that would likely result in the child** entering foster care (without regard to whether the child would be eligible for foster care maintenance payments under section 472 or is or would be eligible for adoption assistance or kinship guardianship assistance payments under section 473) but who can remain safely in the child's home or in a kinship placement **through a Voluntary Placement Agreement pursuant to Section 472(e) – (g)** as long as services or programs specified in section 471(e)(1) that are necessary to prevent the **abuse and neglect** ~~entry of the child into foster care~~ are provided. The term includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.”

Amend Section 472(e) of the Social Security Act as follows:

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days **12 months, unless** there has been a judicial determination by a court of competent jurisdiction to the effect that such placement is in the best interests of the child. **For a voluntary placement agreement to extend by 180 days, there must be a formal extension of the VPA by the parent or legal guardian and the child welfare agency.**

Title I. Eligibility for Federal Foster Care Benefits Issue

Amend Section 472(a)(3)(A)(ii) of the Social Security Act as follows:

“(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

“(ii) (I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

“(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made. **A child who is receiving services or programs pursuant to subsection 471(e) for more than 6 months while in the home of a kin caregiver, and who would satisfy the AFDC eligibility requirement of section 472(a)(3)(A)(ii)(II) but for residing in the home of the caregiver for more than 6 months, is deemed to satisfy the requirement of this subsection for purposes of determining whether the child is eligible for foster care maintenance payments.**”

Amend 474(a)(10)(B) of the Social Security Act as follows:

“(B) CANDADATES IN KINSHIP CARE. – A child described in paragraph (2) for whom such services or programs under this subsection are provided for more than 6 months while in the home of a kin caregiver, and who would satisfy the AFDC eligibility requirement of section 472(a)(3)(A)(ii)(II) but for residing in the home of the caregiver for more than 6 months, is deemed to satisfy that requirement for purposes of determining whether the child is eligible for foster care maintenance payments under section 472.”

Title II. Supervised Independent Living Settings Issue

Amend Section 472(k)(2) of the Social Security Act as follows:

“(2) SPECIFIED SETTINGS FOR PLACEMENT.— The settings for placement specified in this paragraph are the following:

“(A) A qualified residential treatment program (as defined in paragraph (4)).

“(B) A setting specializing in providing prenatal, post-partum, or parenting supports for youth.

“(C) In the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently.

“(D) 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, in accordance with section 471(a)(9)(C).

“(E) A child who has attained 16 years of age may be placed in a supervised independent living setting if it is part of the child’s case plan.”

Amend Section 472(c)(2) of the Social Security Act as follows:

“(2) CHILD-CARE INSTITUTION.—

“(A) IN GENERAL.—The term ‘child-care institution’ means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed, by the State in which it is situated or has been approved by the agency of the State responsible for licensing or approval of institutions of this type, as meeting the standards established for the licensing.

“(B) SUPERVISED SETTINGS.—In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations. **For a child who has attained 16 years of age and whose case plan includes placement in a supervised independent living setting, the term shall include this supervised setting.**

“(C) Exclusions.—The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.”

Title II. 30-Day Assessment Requirement Issue

Amend Section 472(k)(3) of the Social Security Act as follows:

“(3) ASSESSMENT TO DETERMINE APPROPRIATENESS OF PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.—

“(A) DEADLINE FOR ASSESSMENT.—In the case of a child who is placed in a qualified residential treatment program, if the assessment required under section 475A(c)(1) is not completed within 30 days after the placement is made, no Federal payment shall be made to the State under section 474(a)(1) for any amounts expended for foster care maintenance payments on behalf of the child during the placement.

“(B) If an assessment requires longer than 30 days to complete and the state documents in the child’s case file the reasons for the longer assessment, Federal payments on behalf of the child may continue for a period not to exceed a total of 60 days.

“(C) States may adopt an alternative assessment process if it is part of a comprehensive child welfare reform that demonstrates a commitment to reducing placements in qualified residential treatment programs and is reflected in the State Plan.

“(B) **(D)** DEADLINE FOR TRANSITION OUT OF PLACEMENT.—If the assessment required under section 475A(c)(1) determines that the placement of a child in a qualified residential treatment program is not appropriate, a court disapproves such a placement under section 475A(c)(2), or a child who has been in an approved placement in a qualified residential treatment program 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, Federal payments shall be made to the State under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of the child while the child remains in the qualified residential treatment program only during the period necessary for the child to transition home or to such a placement. In no event shall a State receive Federal payments under section 474(a)(1) for amounts expended for foster care maintenance payments on behalf of a child who remains placed in a qualified residential treatment program after the end of the 30-day period that begins on the date a determination is made that the placement is no longer the recommended or approved placement for the child.

Title II. QRTP Requirements

- **Definition of Service Population for QRTP**
- **Requirement for Nursing Staff in QRTP**

Amend Section 472(k)(4) of the Social Security Act as follows:

“(4) Qualified Residential Treatment Program.—For purposes of this part, the term ‘qualified residential treatment program’ means a program that—

(A) 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 **or other documented behavioral or therapeutic needs requiring the care provided by a qualified residential treatment program**, and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under section 475A(c);”

“(B) has registered or licensed nursing staff **and or** other licensed clinical staff who—

“(i) provide care within the scope of their practice as defined by State law;

“(ii) are on-site ~~during business hours~~ at times and in such manner that are appropriate to the needs of the children placed in the qualified residential treatment program; and

“(iii) are available 24 hours a day and 7 days a week;

“(iv) can meet the documented needs of children placed in the qualified residential treatment program.”