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The Texas Two-Step: Community-Based Care and the Family First Prevention Services Act

by Andrew C. Brown, J.D.
Distinguished Senior Fellow of Child & Family Policy

Charissa Huntzinger
Campaign Director, Government for the People

Key Points

- The upcoming implementation deadline for the Family First Prevention Services Act (FFPSA) will require the 87th Legislature to make critical decisions impacting the future of the state's child welfare system.
- Texas lawmakers must take care to preserve and advance successful reforms already achieved through community-based care, which have improved outcomes for at-risk children and their families.
- Challenges associated with FFPSA implementation along with a projected budget shortfall due to the COVID-19 pandemic and unanswered questions about how the new law will operate should cause Texas lawmakers to proceed with caution.
- Regardless of how the 87th Legislature chooses to achieve FFPSA compliance, it should be done in a fiscally responsible manner that prioritizes the expansion and improvement of community-based care.

Executive Summary

The last three years have seen extensive activity focused on reforming the child welfare system in Texas and at the federal level. In 2017, the Texas Legislature enacted a historic reform of the state's child protective and foster care systems.

This reform, known as community-based care, is designed to make the system more responsive to the needs of children by increasing the role of local private and nonprofit charities in caring for children in foster care. One year later, Congress passed the Family First Prevention Services Act (FFPSA), which is widely considered to be one of the most dramatic overhauls in more than 30 years of how the federal government funds child welfare services. Among its many goals, FFPSA attempts to shift the focus of the child welfare system away from removing children from their families and toward preventing entry into foster care using family strengthening services instead. While FFPSA provides a catalyst for this long overdue change in the culture of state child welfare systems, the law presents numerous challenges for states wishing to take advantage of its provisions allowing federal funds to be used for prevention efforts.

As the October 2021 compliance deadline for FFPSA approaches, the 87th Legislature will be faced with important decisions on how to advance child welfare reform. Texas lawmakers should take a thoughtful, fiscally responsible approach to making these decisions that prioritizes the expansion and improvement of community-based care reforms that are already proving successful at improving outcomes for at-risk children and their families.

Introduction

During the last decade, very little progress has been made by states on improving child welfare outcomes. After hitting a historic low of 396,000 children in FY 2012, the number of children in foster care across the nation increased by 10.4% over the subsequent years to reach a total of 437,000 children in 2018, the most recent year national data is available (Children's Bureau, 2019). Overall, the number of children in foster care increased by 6.3% between 2010 and 2018. During this same period, the rate of confirmed victims of child maltreatment remained relatively steady, fluctuating between 9.1 and 9.4 victims per 1,000 children (Children's Bureau, 2016, p. 21; Children's Bureau, 2020, p. 19). Tragically, the number of children who died as a result of maltreatment, while relatively low, also increased (Children's Bureau, 2016, p. 52; Children's Bureau, 2020, p. 46).

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A growing recognition that the status quo is unacceptable, and, in many cases, actively harmful, has led to a push for fundamental reform of state child welfare systems in recent years. Much of this reform has rightly focused on the trauma caused by separating children from their families and on the necessity of preventing removals into foster care. Reform efforts have also considered ways to make the foster care system more responsive to the unique needs of those children who cannot safely remain with their families.

These areas of reform are most prominently seen in the federal government's shift to a more prevention-focused mindset through the 2018 Family First Prevention Services Act (FFPSA) and the state of Texas's move to expand opportunities for local private and nonprofit charities to care for children in foster care through the community-based care model. The looming October 2021 implementation deadline for FFPSA presents Texas with a unique opportunity to build on the successes it has already achieved through community-based care and dramatically improve outcomes for at-risk children and their families. However, a projected budget shortfall due to the COVID-19 pandemic and the resulting economic downturn will require the 87th Legislature to take thoughtful, fiscally responsible action to ensure that the state continues to make progress on transforming its child welfare system.

The Family First Prevention Services Act

Background and Goals

In February 2018, President Donald Trump signed the Bipartisan Budget Act of 2018 (H.R. 1892, 2018), which included the Family First Prevention Services Act (FFPSA). Considered one of the most dramatic overhauls of federal child welfare policy in over 30 years, FFPSA aims to "provide enhanced support to children and families and prevent foster care placements" (Bipartisan Budget Act, 2018, §50702). To achieve this, FFPSA changed how states can spend funds provided for foster care services under Title IV-E of the Social Security Act and placed restrictions on funding for institutional or group care for children in order to help reduce the number of children placed in these settings (Kelly, 2018; National Conference of State Legislatures, 2020a).

State child welfare systems are funded through a blend of federal, state, and local dollars. The Title IV-E entitlement program is, by far, the largest federal funding stream, consistently accounting for more than half of federal funds spent on state child welfare services (Rosinsky & Williams, 2018, p. 12). The Texas Department of Family and Protective Services (DFPS, 2019) spends over $2 billion annually on providing child welfare services, approximately 16% of which—more than $354 million—comes from Title IV-E[1] (pp. 1-2, 258-259). Given the prominent role Title IV-E funds play in state child welfare budgets, the changes made by FFPSA have the potential of significantly influencing the entire system.

Since 1980, Title IV-E foster care funds have been used by states to help with "monthly maintenance payments for the daily care and supervision of eligible children; administrative costs to manage the program; training of staff and foster care providers; recruitment of foster parents and costs related to the design, implementation and operation of a state-wide data collection system" (Children's Bureau, 2012a, Program Description section; Day & Crumé, 2018). Title IV-E funds are also available to states to facilitate the adoptive placement of children with special needs or who are otherwise difficult to place (Children's Bureau, 2012b). The limitation on the use of Title IV-E funds for "the daily care and supervision of eligible children" (Children's Bureau, 2012a, Program Description section) meant that states could only spend these funds on children who had already been removed from their families and placed into foster care. FFPSA changes this by permitting states to utilize Title IV-E funds on certain activities designed to keep families together and prevent the removal of children at risk of entering the system. As with any federal entitlement, however, the promise of additional flexibility may prove to be illusory as states will be required to navigate a number of regulatory hurdles to be able to utilize Title IV-E funds for prevention. Even then, FFPSA places strict parameters around what activities qualify as prevention services eligible for reimbursement. These hurdles will be discussed in greater detail in the Challenges section.

The new prevention funding authorized by FFPSA is focused on three main areas—mental health, substance abuse treatment, and in-home parenting skills programs (42 U.S.C. 671(e)(1)). Title IV-E funds can only be used to provide these services to a family for up to 12 months, and only those services that are listed as promising, supported, or well-supported on the newly created Prevention Services Clearinghouse will qualify for Title IV-E reimbursement (42 U.S.C. 671(e)(4)(c); 42 U.S.C. 676(d)(2)). The clearinghouse is intended to serve as a tool for conducting reviews of programs designed to prevent foster care entry and for states to access in order to identify eligible services (Title IV-E Prevention Services Clearinghouse, n.d.-a). As of this writing, only 14 programs have been rated as either promising, supported, or well-supported (Title IV-E Prevention Services Clearinghouse, n.d.-b).

1 Authors' calculation comparing total Title IV-E funds received by DFPS and the total amount spent by the department during FY 2019.

Beyond prevention services, the act also aims to ensure that foster children are placed in the least restrictive setting possible by placing limits on the use of federal funds for placement of children in congregate care (42 U.S.C. 672(k)). In general, federal payments will not be made for the purposes of maintaining a child in an institutional placement for longer than 2 weeks (42 U.S.C. 672(k)(1)). The law, however, exempts four specific settings from this restriction—qualified residential treatment programs (QRTPs), facilities that specialize in providing support for pregnant or parenting youth, supervised independent living settings, and settings specializing in providing residential care and support for sex trafficking victims (42 U.S.C. 672(k)(2)). The category of qualified residential treatment program is a new category created by FFPSA that describes dorm-like congregate facilities that care for foster children who require specialized treatment or close supervision. In order to be approved as a QRTP, a new category created by the law, an institution must abide by strict standards including the use of a trauma-informed model, employment of registered or licensed nursing and clinical staff, integration of family into treatment, use of discharge planning, and formal assessment of all children within 30 days of entry for potential suitability of foster home placement (42 U.S.C. 672(k)(4)).

The law also makes a few additional, minor changes, like requiring states to participate in a new electronic case processing system intended to expedite interstate placements of children and raising foster care eligibility to 23 years old (H.R. 253, 2017, §122(a)(2) & 303(a)(1)).

Current State of Implementation

Many of the amendments made by FFPSA took effect on January 1, 2018, but the legislation provided states with a transition period for bringing their prevention plans into compliance. It also allowed states to delay for up to 2 years the October 1, 2019, effective date for mandates regarding group homes and residential facilities (Bipartisan Budget Act, 2018, §50746). As of October 1, 2019, 40 states, including Texas, had notified the U.S. Children's Bureau that they intended to delay implementation (Kelly, 2019; DFPS, 2018).

In announcing its intent to delay FFPSA implementation, DFPS stated that the main reasons were a lack of sufficient numbers of accredited child welfare service providers or providers who offered evidence-based services as well as not having a single qualified residential treatment program in the state (DFPS, 2018). DFPS also noted that the federal government had not provided guidance on which evidence-based services qualified to receive funding. The barriers to implementation cited by DFPS are among several key challenges states must overcome before FFPSA can be successfully leveraged to achieve its goals of reducing foster care entries and moving the system toward a focus on prevention and restoration.

Challenges

While FFPSA has the potential of spurring significant child welfare reform, there are several structural hurdles, and a few possible pitfalls, within the law that state policymakers will have to navigate first.

Defining "Child Who Is a Candidate for Foster Care"

A critical component of the changes made to Title IV-E allowing states to use these funds for prevention services is determining which children qualify for these services. FFPSA amended Section 475 of the Social Security Act by adding a definition for the term "child who is a candidate for foster care." This definition guides states in determining which children and families can be served with Title IV-E dollars. Importantly, though, the definition is tied to a "child who is identified in a prevention plan under section 471(e)(4)(A)," meaning that individual states have the authority to define candidacy in the Title IV-E plan they are required to submit to the federal government as a condition of receiving Title IV-E funds (Bipartisan Budget Act, 2018, §50711(b); 42 U.S.C. 675(13)).

How a state sets this definition will likely be a key determining factor in whether the state is ultimately successful at keeping families together and reducing the number of children who enter its foster care system. A well-crafted, narrowly tailored definition of a "child who is a candidate for foster care" will help states reduce reliance on foster care by allowing caseworkers to more accurately identify children who may have otherwise been removed but who can safely remain with their families with targeted support services. By contrast, a broad definition carries the risk of casting too wide a net that pulls families into the system unjustly, increases caseloads and the cost of providing services, and allows children who are at imminent risk of harm to fall through the cracks.

Congregate Care and Qualified Residential Treatment Programs

A primary goal of FFPSA is to reduce reliance on congregate care and residential settings where children, particularly those with more significant physical or mental health needs, live in dorm-like institutions. Under Title II of the act, federal funds may only be used to care for a child in one of these facilities for a maximum of 2 weeks. Only facilities that qualify as a QRTP, a program supporting parenting youth, a supervised

independent living (SIL) facility, or a setting specializing in the care of sex trafficking victims are exempt from this 2-week limit (42 U.S.C. 672(k)(2)). Although the intent of these limitations is to ensure children are placed in the most nurturing setting possible—ideally a family foster home—requiring institutions to obtain the QRTP designation may have negative, unintended consequences.

One of the main concerns with the strict qualifications to become a QRTP is the potential for these programs to be considered an Institution for Mental Disease (IMD) by Medicaid under Section 1905(i) of the Social Security Act and therefore face the IMD exclusion (Centers For Medicare and Medicaid Services, 2019, p. 1). An IMD, by definition, is considered a "hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services" (2). The QRTP model could qualify as an IMD as it requires an institution to have registered or licensed nursing and clinical staff who are onsite during business hours but always available (42 U.S.C. 672(k)(4)(b)). In addition, all treatment must adhere to a trauma-informed care model for children with serious emotional disturbances (42 U.S.C. 672(k)(4)(a)).

States cannot claim federal Medicaid reimbursement for services provided to residents placed in IMDs (Centers for Medicare and Medicaid Services, 2019, pp. 2-3). Additionally, Title IV-E funds that have historically been used toward congregate care are now being diverted under Family First to early intervention services (Congressional Budget Office, 2016, pp. 1-4). Thus, without Medicaid support, and with the new funding structure of FFPSA, QRTPs may increase the amount of state dollars spent on these services.

It is important to note that IMD exclusions are decided on a case-by-case basis, meaning not all QRTPs will automatically be considered an IMD. Also, exceptions to the IMD exclusion, such as inpatient psychiatric hospital services for youth under 21, known as a Psychiatric Residential Treatment Facility (PRTF), can be reimbursed (Ajuonuma, n.d., slide 3). However, neither the evaluation process nor the PRTF exception eliminates the funding problem presented, but they do represent the difficulties with intricate cross-system management. These strict requirements will also present states with the challenge of getting enough residential facilities accredited in order to have enough beds for qualifying children.

Potential Conflicts with Medicaid

While FFPSA opened up Title IV-E funds for certain prevention and early-intervention services, getting funds to these services is not as simple as a mere redirection of federal dollars. Specifically, the structure created by FFPSA raises potential conflicts with Medicaid.

When determining whether Medicaid or Title IV-E funds may be utilized to pay for specific services provided to families, the state must consider if the service is already offered by Medicaid, if the recipient of services is covered by Medicaid, and if other state-level funding sources are involved in prevention services (Medicaid, n.d.). Medicaid already covers a number of services for populations FFPSA designates as "at-risk" youth and families, including wraparound services, therapeutic foster care, home visiting services, and substance abuse treatment, among others (Casey Family Programs, 2019). So, a family who qualifies for a Title IV-E prevention service, like mental health treatment, may also qualify to receive the same service under Medicaid. This overlap further complicates service delivery for states wishing to opt in to the Title IV-E prevention services program.

Guidance provided by the Administration for Children and Families indicates that if a family who qualifies for Medicaid receives preventative services that are allowable under both Medicaid and the Title IV-E prevention program, Medicaid funds must be used before the Title IV-E portion is paid (Casey Family Programs, 2019, slide 21). It is incumbent upon states, then, to determine how much overlap will exist between Title IV-E prevention services and services covered by Medicaid, and to establish clear and efficient lines of communication to coordinate these two complex systems (Children's Defense Fund, 2019, p. 54). Failure to do so could result in wasted taxpayer dollars and families not receiving the services they need.

Without effective collaboration between DFPS, the Health and Human Services Commission, and the Texas Medicaid & Healthcare Partnership, Texas could run into issues regarding funding and providing services. With the overlap in Medicaid and Title IV-E populations and programs, the success of the coordination of care and services will be the difference between saved or lost state funds, efficient or convoluted provision of services, and investment in successful or unsuccessful programs.

Prevention Services Clearinghouse Limitations

As mentioned above, FFPSA limits funding for prevention services only to those programs that are listed as promising, supported, or well-supported on the Title IV-E Prevention Services Clearinghouse (42 U.S.C. 671(e)(4)(c); 42 U.S.C. 676(d)(2)). While the intent of this provision is to ensure that federal funds are spent on providing services that are proven to achieve the desired prevention outcomes, putting this system into practice has proved difficult.

Currently, there are only 14 programs listed in the clearinghouse that meet the required accreditation thresholds (Title IV-E Prevention Services Clearinghouse, n.d.). This means that states wishing to provide prevention services have precious few options available to them. While Prevention Services Clearinghouse staff are continually reviewing programs and services for inclusion, the review process is slow and places further limits on the potential pool of qualifying services (Wilson et al., 2019, pp. iv-v). In order to be considered for review, a program or service seeking approval must submit at least one qualifying research study examining its approach and outcomes for review by the clearinghouse (Wilson et al., 2019, p. 9). In order to qualify, a research study must be published after 1990 in a peer-reviewed journal or a report commissioned by a governmental entity or research institute. In addition, the design of the study must be quasi-experimental and include certain specific conditions and outcomes. Obtaining a qualifying research study that meets these standards could prove particularly difficult for small nonprofit organizations developing innovative services. Accordingly, the structure of the clearinghouse review process may have the unintended consequence of preventing certain innovative practices from becoming qualified simply because of the regulatory barriers to entry. Without a more efficient and accessible review process, states will likely continue to have few qualifying prevention programs available to them by the time FFPSA is fully implemented.

Family First Transition Act

In response to the challenges discussed above, as well as additional concerns raised by states regarding barriers to implementation, Congress passed the Family First Transition Act (Transition Act) as part of the Further Consolidated Appropriations Act of 2020 (National Conference of State Legislatures, 2020b). The Transition Act appropriated $500,000,000 in one-time grants to be distributed among the states to support activities directly associated with the implementation of FFPSA, augment existing Title IV-B spending, and reduce negative impacts to states carrying out demonstration projects under the Title IV-E waiver program[2] (Further Consolidated Appropriations Act, 2020, Div. N, Title I, Subtitle F, Sec. 602(c)(1)(A); Administration for Children and Families, 2020a, p. 3). Texas is projected to receive approximately $50.3 million in Transition Act funding (Administration for Children and Families, 2020b, p. 7). Transition Act grants are scheduled to be awarded to states in fiscal year 2020 and will remain available through the end of fiscal year 2025 (Administration for Children and Families, 2020b, p. 2).

In its guidance to states, the U.S. Department of Health and Human Services Administration for Children and Families (ACF) encouraged child welfare agencies to use Transition Act funds strategically and "not only to meet short-term goals or fill funding gaps" (Administration for Children and Families, 2020b, p. 2). Given the lack of accredited child welfare service providers operating evidence-based programs cited by DPFS as one of the primary reasons for delaying FFPSA implementation, state officials should seriously consider utilizing Transition Act funds to increase service capacity. Any capacity-building efforts must start with an assessment of the effectiveness of current programs provided directly by DFPS as well as through contracted entities. In addition, DFPS should work with local community providers to identify highly effective services and help these services become accredited for inclusion in the clearinghouse.

Fortunately, Texas will not have to reinvent the wheel in order to accomplish this goal. House Bill 3, a sweeping education reform bill passed by the 86th Legislature, included a requirement that Texas school districts conduct independent, third-party efficiency audits prior to raising maintenance and operations (M&O) property tax rates (HB 3, 2019, pp. 1-3). Unlike regular financial audits that only look at the financial statements of an agency to ensure that records provide a fair and accurate representation of the agency's financial activities, efficiency audits are intended to determine if the dollars spent by the agency are actually generating desired outcomes. In the context of school districts, an efficiency audit compares the tax dollars spent by the district with outcomes like student educational performance (Troxclair, 2019). This same structure can be easily

2 The Title IV-E waiver demonstration program provided states with the ability to waive certain provisions of the law to obtain flexibility in the use of federal funds that would allow them to experiment with innovative ways of providing child welfare services (James Bell Associates, 2018, p. 2). The program expired in September 2019 and was not renewed.

repurposed to allow DFPS to engage an independent third party to conduct an efficiency audit of all current child welfare services to identify programs that are generating desired outcomes for children and families and eliminate wasteful spending from underperforming programs. Based on the guidance provided by ACF, Texas could use Transition Act funds to conduct the efficiency audit and secure FFPSA accreditation for those services identified as highly efficient at achieving desired prevention outcomes (Administration for Children and Families, 2020b, pp. 3-4).

Community-Based Care: The Texas Solution

Due in part to recent efforts aimed at fundamentally transforming its child welfare system, Texas is better positioned than many other states to make the transition to the prevention-focused system envisioned by FFPSA. In 2017, one year prior to the enactment of FFPSA, the 85th Legislature passed Senate Bill 11 (2017), which overhauled the state's Child Protective Services and foster care systems. Years of failure by the state-run child welfare system to adequately meet the needs of children in its care resulted in a class action lawsuit being filed against the state in 2011 on behalf of children in the Permanent Managing Conservatorship of DFPS (*M.D. v. Abbott*, 2015, pp. 1-4). In 2015, a federal judge issued a ruling in that case holding that the Texas system infringed upon the constitutional rights of the children in its care and finding that children in the department's Permanent Managing Conservatorship "almost uniformly leave State custody more damaged than when they entered" (p. 254).

In response, Texas Governor Greg Abbott made child welfare reform an emergency item for the 85th Legislature, which led to the enactment of Senate Bill 11 (Office of the Texas Governor, 2017). The centerpiece of this historic reform was the decentralization of foster care through a model known as community-based care (SB 11, 2017, p. 23). Under community-based care, local private and non-profit charities take on primary responsibility for caring for and managing the cases of children in foster care. Currently, there are four regions of the state operating under this new model, with a fifth scheduled to launch before the end of FY 2020 (DFPS, 2020a).

Approximately 3,000 Texas children, roughly 6% of the state's foster care population, are being served by community-based care (DFPS, 2020a). Preliminary results from operational regions show that the new model is doing exactly what it was designed to do—address the failures of the old, state-run system and improve outcomes for children.

Across all active regions, local providers are showing positive gains in key performance indicators such as child safety, placement stability, and placement in the least restrictive setting (DFPS, 2020b, pp. 6-10). Given the emphasis FFPSA places on reducing reliance on institutional settings, the success of community-based care providers at placing children in the least restrictive placement setting is of particular importance. The most recent data released by DFPS analyzing provider performance shows that approximately three fourths of all children placed are in the least restrictive setting (DFPS, 2020b, pp. 6-10).

In Region 3b, which has been operating the longest, improvements in placement settings are being driven by local innovation. Our Community Our Kids (OCOK), the lead nonprofit agency overseeing foster care services in Region 3b, has achieved these results by increasing local capacity of Therapeutic Foster Care families who are specially trained to provide care for children with more significant emotional and behavioral needs. They also launched an innovative new program called Professional Home-Based Care designed to move children out of institutional settings and into foster family homes (DFPS, 2020b, p. 7). These efforts resulted in a 55% decrease in shelter utilization and a 17.5% decrease in the use of residential treatment facilities between Q1 2018 and Q1 2019 (Our Community Our Kids, 2019, p. 4). This means that more foster children, especially those hardest to serve, are being placed with families rather than in institutions.

While FFPSA seeks to accomplish some important goals, lawmakers should take note that community-based care is already moving Texas toward achieving those goals. As the state grapples with the challenges and opportunities associated with implementing FFPSA, it must continue to prioritize the expansion and improvement of community-based care. Successful implementation of FFPSA can only be achieved if it is done with an eye to the future of foster care in Texas and in concert with community-based care.

Conclusion and Recommendations

The challenges and continued uncertainty associated with FFPSA compliance, coupled with a likely challenging budget situation in the upcoming 2021 legislative session from the novel coronavirus, should lead Texas lawmakers to proceed with caution (Sechler, 2020). Rather than moving forward with full-scale implementation, lawmakers should consider more limited approaches.

The significant lack of qualifying prevention services—both in Texas and on the clearinghouse—is one of the biggest barriers to successful implementation of FFPSA that must be addressed. While Texas has little control over how quickly programs are approved for inclusion on the clearinghouse, it does have the ability to address its own capacity issues. To this end, the state could simply choose to

not opt into the prevention services program until sufficient service capacity is available. During this period, Family First Transition Act funds could be utilized to conduct efficiency audits of current child welfare services to identify those that are generating positive outcomes for children and families. The department could also use this time to work with local communities to identify promising and innovative programs to propose for inclusion on the clearinghouse.

While opting out of implementing the Title IV-E prevention services program provides Texas with the time and flexibility to address current service capacity issues, it also means that the state would continue to operate under the old Title IV-E structure. As discussed earlier, one of the main benefits of FFPSA is that it serves as a catalyst for shifting the culture of child welfare away from removing children from their families and toward preventing entry into foster care through family strengthening. If Texas chose to remain under the old Title IV-E system, even for a short time, federal reimbursement for foster care services would remain linked to maintenance of children in the system. This funding structure creates a perverse incentive in favor of removing children and keeping them in care.

Another option available to Texas lawmakers that could help navigate the lack of capacity and administrative challenges associated with FFPSA is to pursue implementation through a phased pilot program. Under this model, the state could implement FFPSA prevention services in select regions of the state to test its effectiveness and work through the more complicated details in a limited area before rolling out to the rest of the state. Since community-based care is already making improvements in many of the areas FFPSA was designed to address, the pilot should focus on regions of the state already operating under this model. Such an approach has a number of advantages. First, linking FFPSA implementation with the continued rollout of community-based care allows the state to continue to build on the successes it has already achieved while also ensuring that FFPSA compliance is aligned with the future of child welfare in Texas. Second, it avoids potential waste associated with attempting to implement FFPSA in the context of the legacy foster care system that is being replaced by community-based care. Finally, it can help spur service innovation and capacity building by empowering local communities to lead in identifying and developing effective prevention services tailored to meeting the unique needs of children and families in their region. Local programmatic innovation paired with efficiency audits could be leveraged to replicate and scale services that prove most effective at achieving optimal outcomes for children and families.

Since 2017, Texas has made impressive progress at turning around its beleaguered child welfare system through the historic move to community-based care. As lawmakers grapple with critical decisions related to the upcoming FFPSA compliance deadline and what will likely be a challenging budget cycle, the state's primary goal should be to preserve and advance the successes already achieved in child welfare reform. Any effort to implement the prevention services provisions of FFPSA must be linked with the continued expansion and improvement of community-based care. If done properly, Texas is well positioned to become a model of successful child welfare reform. ☆

References

Administration for Children and Families. (2020a). *Information memorandum.* U.S Department of Health and Human Services. https://www.acf.hhs.gov/sites/default/files/cb/im2001.pdf

Administration for Children and Families. (2020b). *Program instruction*. U.S. Department of Health and Human Services. https://www.acf.hhs.gov/sites/default/files/cb/pi2004.pdf

Ajuonuma, Peter. (n.d.). *Psychiatric Residential Treatment Facilities (PRTF): general requirements and conditions of participation* [Webinar]. https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/PRTFGeneralRequirementsandConditionsofParticipation.pdf

Bipartisan Budget Act of 2018, Pub. L. No. 115–123, 132 Stat. 64 (2018). https://www.congress.gov/115/plaws/publ123/PLAW-115publ123.pdf

Casey Family Programs. (2019). *Medicaid 201: Medicaid and the family first prevention services act* [Webinar]. https://caseyfamilypro-wpengine.netdna-ssl.com/media/Medicaid-and-Family-First-Medicaid-201.pdf

Centers for Medicare and Medicaid Services. (2019, Sept. 20). *Qualified residential treatment programs (QRTP) and serious mental illness (SMI) and serious emotional disturbance (SED) demonstration opportunity technical assistance questions and answers*. https://familyfirstact.org/sites/default/files/CMS_QRTP%20Technical%20Assistance_09.20.19.pdf

Children's Bureau. (2020). *Child maltreatment 2018.* U.S. Department of Health & Human Services. https://www.acf.hhs.gov/sites/default/files/cb/cm2018.pdf

Children's Bureau. (2016). *Child maltreatment 2014.* U.S. Department of Health & Human Services. https://www.acf.hhs.gov/sites/default/files/cb/cm2014.pdf

Children's Bureau. (2019). *Trends in foster care and adoption.* U.S. Department of Health & Human Services. https://www.acf.hhs.gov/cb/resource/trends-in-foster-care-and-adoption

Children's Bureau. (2012a, May 17). *Title IV-E foster care*. U.S. Department of Health & Human Services. https://www.acf.hhs.gov/cb/resource/title-ive-foster-care

Children's Bureau. (2012b, May 17). *Title IV-E adoption assistance*. U.S. Department of Health & Human Services. https://www.acf.hhs.gov/cb/resource/title-ive-adoption

Children's Defense Fund. (2019, Oct. 1). *Implementing the Family First Prevention Services Act*. http://health.umt.edu/ccfwd/public-policy/ffpsa/asset%20resources/FFPSA-Guide.pdf

Congressional Budget Office. (2016, June 21). *Cost estimate H.R. 5456 Family First Prevention Services Act of 2016.* https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr5456.pdf

Day, A., & Crumé, J. (2018). New federal law restructures the federal financing of child welfare, increases focus on prevention efforts. *Society for Child and Family Policy and Practice.* https://www.apadivisions.org/division-37/publications/newsletters/maltreatment/2018/06/new-law

HB 3. Enrolled. 86th Texas Legislature. Regular. (2019). https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB00003F.pdf#navpanes=0

H.R. 253, Family First Prevention Services Act of 2017, 115th Cong. (2017). https://www.congress.gov/115/bills/hr253/BILLS-115hr253ih.pdf

H.R. 1892, Bipartisan Budget Act of 2018, 115th Cong. (2018). https://www.congress.gov/bill/115th-congress/house-bill/1892/text

James Bell Associates. (July 2018). *Summary of the Title IV-E child welfare waiver demonstrations*. https://www.acf.hhs.gov/sites/default/files/cb/2018_waiver_summary.pdf

Kelly, J. (2018, February 25). *A complete guide to the Family First Prevention Services Act.* The Chronicle of Social Change. https://chronicleofsocialchange.org/finance-reform/chronicles-complete-guide-family-first-prevention-services-act/30043

Kelly, J. (2019, October 21). *Latest Family First Tally: 39 States Taking Delay for Up to Two Years*. The Chronicle of Social Change. https://chronicleofsocialchange.org/child-welfare-2/latest-family-first-tally-39-states-taking-delay-for-up-to-two-years/38513

M.D. v. Abbott, No. 2:11-CV-00084, Document 368 (S.D. Tex. Dec. 17, 2015). http://www.childrensrights.org/wp-content/uploads/2015/12/2015-12-17-Memo-opinion-and-verdict-of-the-court-2.pdf

Medicaid. (n.d.) *Coordination of benefits & third party liability.* Retrieved May 21, 2019 from https://www.medicaid.gov/medicaid/eligibility/coordination-benefits-third-party-liability/index.html

National Conference of State Legislatures. (2020a, April 1). *Family First Prevention Services Act*. https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx

National Conference of State Legislatures. (2020b, May 20). *Family First legislation*. https://www.ncsl.org/research/human-services/family-first-updates-and-new-legislation.aspx

Office of the Texas Governor. (2017). *Governor Abbott delivers the state of the state address* [Press release]. https://gov.texas.gov/news/post/governor_abbott_delivers_state_of_the_state_address

Our Community Our Kids. (2019). *Community-based care: Bringing kids home* [Status Report]. https://simplebooklet.com/ocokfeb2019update#page=0

Rosinsky K., & Williams, S. C. (2018). *Child welfare financing SFY 2016: A survey of federal, state, and local expenditures.* Child Trends. https://www.childtrends.org/wp-content/uploads/2018/12/CWFSReportSFY2016_ChildTrends_December2018.pdf

SB 11. Enrolled. 85th Texas Legislature. Regular. (2017). https://capitol.texas.gov/tlodocs/85R/billtext/pdf/SB00011F.pdf#navpanes=0

Sechler, Bob. (2020, April 7). Coronavirus in Texas: Comptroller says revenue estimate to fall by several billion. *Austin American-Statesman*. https://www.statesman.com/business/20200407/coronavirus-in-texas-comptroller-says-revenue-estimate-to-fall-by-several-billion

Texas Department of Family and Protective Services. (2020a). *Community-based care.* Child Protective Services. https://www.dfps.state.tx.us/Child_Protection/Foster_Care/Community-Based_Care/default.asp

Texas Department of Family and Protective Services. (2020b). *DFPS rider 15 report for community-based care.* https://www.dfps.state.tx.us/About_DFPS/Reports_and_Presentations/Rider_Reports/documents/2020/2020-03-31_Rider_15_Community_Based_Care_Report.pdf

Texas Department of Family and Protective Services. (2019). *Operating budget for fiscal year 2020*. https://www.dfps.state.tx.us/About_DFPS/Budget_and_Finance/Operating_Budgets/FY20-Operating_Budget.pdf

Texas Department of Family and Protective Services. (2018). *Texas delays implementing certain provisions of the Family First Prevention Services Act.* DFPS Bulletin. https://content.govdelivery.com/accounts/TXDFPS/bulletins/21b83e7

Title IV-E Prevention Services Clearinghouse (n.d.-a). *Homepage*. https://preventionservices.abtsites.com

Title IV-E Prevention Services Clearinghouse. (n.d.-b) *Find a program or service.* https://preventionservices.abtsites.com/program

Troxclair, E. (2019, April). Efficiency audits. *The Gilmer Mirror.* http://www.gilmermirror.com/view/full_story/27640095/article-Troxclair-Efficiency-Audits?

Wilson, S.J., Price, C.S., Kerns, S.E.U., Dastrop, S.R., & Brown, S.R. (2019). *Handbook of standards and procedures.* Title IV-E Prevention Services Clearinghouse. https://preventionservices.abtsites.com/themes/ffc_theme/pdf/psc_handbook_v1_final_508_compliant.pdf

ABOUT THE AUTHOR

Andrew C. Brown, JD, is the distinguished senior fellow of child and family policy at the Texas Public Policy Foundation.

Brown has dedicated his career to serving vulnerable children and strengthening families through community-focused, liberty-minded solutions. As an attorney, he has represented children in the child welfare system, advocated for the rights of parents, and helped build families through domestic and international adoption.

Andrew earned his BA, magna cum laude, in political science from Baylor University and his JD from Southern Methodist University Dedman School of Law. He is licensed to practice law in Texas and Virginia. His work on international adoption law and other child welfare issues has been published in leading legal journals and respected media outlets.

ABOUT THE AUTHOR

Charissa Huntzinger is a campaign director for the Government for the People campaign at Texas Public Policy Foundation and specializes in child welfare policy. Before joining the Foundation as an analyst, she worked at the Michael and Susan Dell Foundation helping support workforce development programs in Central Texas.

Huntzinger has BAs in both political science and French from Baylor University. Her honors thesis, "You are Who You Fight: the CIA, Covert Action, and National Security," covered the evolution of the CIA.

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