
**Questions on the Family First Act, bi-partisan legislation pending before the
U.S. Senate Finance Committee (February 19, 2016)**

General Questions

Why can't I find an official version of the Family First Act?

As of Friday, February 19, the Family First Act has not been officially introduced. A draft summary has been made public by Senators Hatch and Wyden, but an official version of the bill in its entirety has not been made available. As we understand it, Senate Finance legislation sponsored by the Chairman (Chairman's Mark) can only be viewed through summaries or shared through verbal presentations. In effect the bill is considered a *legislative proposal* not a bill until it is formally introduced through a Senate Finance Committee markup.

What is a Senate markup? A markup is the process by which congressional committees and subcommittees debate, amend, and rewrite proposed legislation.

My Senator says s/he hasn't seen the official draft language. Why would that be?

Senators Hatch and Wyden staff have indicated that they have provided a summary of the Family First Act to the Senate Finance Committee members and offered to meet with their staff to show them the detailed draft bill.

Can I get a copy of the current draft summary of the Family First Act?

Yes, [click here](#) for the draft summary that was provided by the Senate Finance Committee staff in November, 2015.

How does this affect a state with a Title IV-E waiver?

A waiver state may complete the terms of its waiver or can choose to terminate early as under current law. However, the flexibility offered under a capped allocation waiver may help states develop needed infrastructure to fully implement both the option and the new requirements contained in the bill. It is important to note that Congress has strongly indicated that the IV-E Waiver Demonstration Project will not be extended beyond its current end date of 2019.

Will states be required to follow the Family First Act?

The reimbursement of Title IV-E funds for prevention services for eligible children under Title I of the Family First Act – Prevention and Family Services Programs will be optional for states. Title II - Ensuring the Necessity of a Placement that is not a Foster Family Home will not be optional.

Does the Family First Act achieve comprehensive finance reform?

While the draft bill does not fully reform federal financing, it represents an important move forward by making key changes in the allowable use of IV-E financing. First, Title I

of the Act prospectively eliminates the “lookback” because there would be no income eligibility requirement for services and supports provided under FFA’s Title I. Second, Title I of the Act makes a significant change by allowing IV-E financing to be used for time-limited prevention and early intervention supports and services for the child, family or kin.

What is the “lookback”? Each year, federal funding to states is reduced because of the eligibility criteria that is linked to the poverty standards from the 1996 Aid to Families with Dependent Children program. Before welfare reform in 1996, AFDC was an open entitlement for any child whose family qualified for AFDC. With welfare reform, Congress replaced AFDC with TANF, which is a block grant to states. At that time, a new eligibility standard was adopted for foster care, which requires a “look back” to the AFDC income rules in effect on July 16, 1996. A child’s eligibility for foster care today depends on whether the child’s family meets the criteria for AFDC in 1996.

What is the impact of the bill on residential treatment centers and group homes?

Title II of the bill requires allows States to draw down federal financial participation (FFP) for the placement settings outlined in Title II. This section creates a definition for a Qualified Residential Treatment Program (QRTP) and a definition for a family foster home. After the first two weeks a child is in the foster care system, QRTPs, homes for pregnant and parenting teens and independent living arrangements are the only group settings for which federal reimbursement under Title IV-E financing is allowed. Within the first 30 days a child is in the system, a functional needs assessment is required to determine if the child is appropriately placed, as the legislation requires that the designated QRTP is equipped to meet the child needs (in order for federal reimbursement to be drawn down on behalf of the child). If the needs assessment indicates that the child does not need treatment, he/she is to be placed with a family.

Summarized QRTP definition (only a summary version of the definition is public at this writing): A clinically-recognized treatment model that is designed to address the needs, including clinical needs as appropriate, of children; ability to provide treatment based on a functional needs assessment; has registered or licensed nurses and licensed clinical staff on site during business hours and available 24/7; facilitates participation with family; documents how family members are integrated; provides discharge planning and aftercare support for at least 6 months; is licensed and accredited.

Does the bill intend for a child to receive the treatment s/he needs based on the condition identified through the required needs assessment and that the treatment can be made available in whatever setting as long as that setting specifically provides treatment for the identified condition and meets the definitions of a QRTP or foster family home?

According to Senate staff, the legislative intent in the draft Family First Act is that when a needs assessment identifies that placement in a QRTP is appropriate at this time, he/she can receive treatment in a QRTP for the condition whether it is related to trauma, a behavioral issue or clinical or medical diagnosis.

Does the Family First Act limit how state and local dollars are used to finance the state or county child welfare system?

No, the Family First Act defines the allowable use of federal IV-E funds. States are not prohibited from delivering any type of support, service, setting, treatment, etc. that it deems vital for the children and families it serves with state, local, or other funds. However, the Act does require that states must continue to spend the same amount of state and local dollars on child welfare services as they did in FY2014 in order to be reimbursed under Title IV-E for prevention services. That amount of money is considered the state's Maintenance of Effort (MOE) and none of those dollars may be used to draw down new IV-E funding. HHS is to define foster care prevention services but in the calculation, HHS must include all state and local expenditures for those purposes that were spent in FY2014 under IV-B, TANF or SSBG.

Questions on Section 1: Prevention and Family Services Programs under Title IV-E (would begin October 1, 2017)

Why are the family services limited by time and by scope?

Title I of the Family First Act adds significant new federal investments to state, local, and tribal child welfare systems. It allows states and tribes to draw down a federal match for prevention services for all eligible children regardless of family income. States are eligible for federal reimbursement for a child that is defined as "candidate" for foster (i.e. at risk for entry or re-entry into foster care.) Policymakers based their provisions on the best information available and believe that through the 12-month timeframe authorized by the Family First Act and access to prevention services through Medicaid and Title IV-B, families will have upstream supports over a longer timeframe. As we understand it, there is not a life-time limit on these services so children and families can receive services more than once, but the legislation currently allows for a time-limited twelve-month period during which a child or their families might be eligible for services for which the state will receive federal reimbursement .

What is a CBO score? The Congressional Budget Office (CBO) provides the Congress with formal and informal cost estimates that analyze the likely effects of proposed legislation on the federal budget. The score helps Members of

Congress understand how much a proposed bill will cost. (See [What is a CBO score?](#))

Why the services are offered limited to substance abuse prevention, mental health services and in-home parent skill-based programs, including parenting training and individual/family counseling?

Services were chosen based on a review of current data about reasons for entry into foster care and the types of activities selected in waiver states.

My state uses Medicaid to reimburse for substance abuse prevention and mental health services. How does having IV-E available for these services make a difference?

There is no income test for the services outlined in Title I of the Family First Act, so the child, or the family or kin of any child at imminent risk of entering or re-entering foster care can receive services. It is also useful to consider how much uptake your state may have for the in-home parent skill-based programs and if your state would be able to use the 12 months of eligibility offered in the Family First Act in conjunction with what Medicaid covers for the same families. It also allows communities who have long waiting-lists or a lack of Medicaid providers to more immediately meet the needs of child welfare families.

Is there an income eligibility requirement for services in Title I of the Family First Act?

No, eligible children, youth, parents and kin caregivers in cases where the state has deemed a child as a candidate for foster care are eligible for the time-limited family services regardless of whether they meet the AFDC income eligibility requirements otherwise required for Title IV-E. The Family First Act prospectively eliminates the lookback provision for the purposes described in Title I of the draft legislation.

Why is there a provision that limits the services to evidence-based services?

There is a growing emphasis to invest federal dollars toward what we know works, a trend that is seen across a number of federal programs and funding sources. In this case, the provision is intended to align federal funding accordingly. Federal reimbursement for services deemed reimbursable under Title IV-E under the Family First Act are also limited to promising practices, well-supported and evidence-based services in order to achieve a favorable Congressional Budget Office score, or CBO score.

What is a CBO score? The CBO provides the Congress with formal and informal cost estimates that analyze the likely effects of proposed legislation on the federal budget. The score helps Members of Congress understand how much a proposed bill will cost and helps them judge the likelihood of it passing. (See [What is a CBO score?](#))

Is it possible that the provision that limits the services to evidence-based would be expanded to include programs that demonstrate effective outcomes?

The Triad continues education and advocacy on the Family First Act and note the positive step forward and the opportunities the legislation present. We understand the limitations under the current evidence-based practice requirements and are actively pursuing the best process (either currently in the Senate Finance Committee or once the bill moves to the House) for refining the current provisions.

Would programs using evidence-based practices be counted as evidence based services, or does the entire delivery model have to be evidence-based?

It is our understanding from Senate staff that the entire model would have to be evidence-based.

Are there requirements for evidence-based services related to QRTP, as defined in Title II?

It does not appear that there are requirements for evidence-based services for Qualified Residential Treatment Programs in the draft version of the bill.

Is it accurate to say that this bill does not contemplate funding to support the development of new evidence-based practices?

That is correct. The bill does not provide funding support for the development of new evidence-based practices. However, it includes funding for HHS to conduct a multi-year effort to research use and application of emerging, promising, evidence-informed practices.

Is there a phase in, by age, for all prevention services outlined in the legislative language or only for the services for kin caregivers (short-term financial support and kinship navigator services)?

It appears that there is no phase in, by age, for services other than those offered to kin caregivers. [Note: The Triad is preparing a supplemental document on the “kinship caregivers” provision.]

Does the proposed new licensing standard waive the current safety standards regarding foster homes (e.g. number of kids per room)?

The Family First Act requires the Secretary, by regulation, to establish national model foster care licensing standards for relative caregivers and requires states to explain why they deviate from such standards, if applicable. Since there are no new licensing standards yet, there is no answer this question at this time.

Questions on Section II: Ensuring the Necessity of a Placement that is Not a Foster Family Home *(would begin October 1, 2019)*

Are we correctly understanding that this legislation does not otherwise change what is in current law with regard to therapeutic foster care?

According to Senate staff, this draft bill does not change current law for TFC.

Is it true that the definition for a Qualified Residential Treatment Program (QRTP) includes staffing requirements?

Yes, as we understand it the summary legislative language, a QRTP must have a registered or licensed nursing staff and licensed clinical staff onsite during business hours and available 24/7.

Questions on the Keeping Kids in Families campaign

I'm a bit confused about how [Keeping Kids in Families](#) links to the Family First Act and the Triad's activity. Can you clarify?

Keeping Kids in Families is the awareness and engagement campaign for the Triad. The backdrop to using Keeping Kids in Families is the Triad's decision-making process for collective development, review and analysis of child welfare finance policies. In other words, the talking points and tools provided through Keeping Kids in Families are will always be consistent with and informed by the official position of the Triad.