

The Texas Response to the Family First Prevention Services Act

The Issue

In 2017, the 85th Texas Legislature passed sweeping reforms in response to the crisis of the state's struggling child welfare system. The landmark reform known as community-based care decentralized the state's foster care system by giving local private and nonprofit charities primary responsibility for caring for and managing the cases of children in foster care in their region. One year later, the Trump administration enacted the Family First Prevention Services Act (FFPSA), which seeks to shift the focus of child welfare toward preventing the removal of children into foster care. Although the effective date for the act was October 1, 2019, Texas elected to delay implementation until October 1, 2021.

State child welfare systems are funded through a blend of federal, state, and local dollars. Title IV-E of the Social Security Act is, by far, the single largest federal funding stream, accounting for more than half of federal dollars spent by states on child welfare services. The FFPSA historically alters how states can utilize Title IV-E funds to achieve reforms aimed at prevention efforts to keep more children at home with their families and reducing reliance on institutional or congregate care settings.

Since 1980, Title IV-E funds have been available to states for meeting the needs of children who were already in foster care and for offsetting certain associated administrative costs. The FFPSA changes this by allowing states to access these funds for the purpose of providing limited prevention services such as in-home parenting skills programs, mental health services, and substance abuse treatment. States may only use funds to provide services for up to 12 months, and only programs that have undergone an external review and are listed on a federally managed database as promising, supported, or well-supported qualify for funding.

In addition to promoting prevention services, the FFPSA also aims to reduce state reliance on congregate, residential, and group care settings by establishing strict limits on how long federal funds may be used to house a child in these settings and limiting funding only to programs that meet stricter quality standards. In general, federal payments will not be made for purposes of maintaining a child in an institutional setting for longer than 2 weeks. The law, however, exempts qualified residential treatment programs (QRTP), facilities that provide support for pregnant and parenting youth, supervised independent living settings, and settings that specialize in caring for sex trafficking victims.

While the FFPSA provides an opportunity for Texas to build on the success it has already achieved through community-based care through better quality and innovation in services, several significant challenges stand in the way. Primary among these challenges are notable gaps in the availability of qualifying services in Texas. In announcing its intent to delay implementation of the FFPSA, the Department of Family and Protective Services (DFPS)

highlighted the state's lack of a sufficient number of accredited service providers or providers offering currently approved evidence-based services. The state also does not have a single QRTP. In response to this lack of capacity, the 86th Legislature enacted [Senate Bill 355](#) and [Senate Bill 781](#), which require a survey of mental health and substance abuse treatment services offered throughout the state as well as an analysis of incorporating prevention services into the new community-based care model.

The need to increase provider capacity and coordinate FFPSA compliance with community-based care expansion is further complicated by the cost of these efforts during a tight budget cycle resulting from the COVID-19 economic downturn. In light of this reality, the 87th Legislature should take a more limited approach to compliance that prioritizes expanding and improving upon successes already achieved in foster care reform through community-based care rather than attempting to pull down more federal matching dollars through a promising, yet still unproven, federal program.

The Facts

- In FY 2019, DFPS spent \$2.2 billion on child welfare services. About \$354 million—roughly 16%—came from Title IV-E funds.
- During FY 2019, 18,615 Texas children were removed from their homes and 51,417 children were in DFPS custody.
- Currently, only 21 programs have been approved by the federal government to receive prevention funding under the FFPSA.
- Texas does not have a single QRTP to serve the highest needs children.
- Community-based care is already making progress on achieving goals set by the FFPSA. For example, innovations in Region 3b decreased shelter utilization by 55% and placements in residential treatment facilities by 17.5% between Q1 2018 and Q1 2019.
- Implementation of the FFPSA in Texas will only be successful if Texas is given maximum autonomy to link it with our innovative community-based reforms.

Recommendations

- Given continued uncertainties surrounding the impact of FFPSA implementation and a tight budget cycle, the 87th Legislature should take a more limited, fiscally responsible approach to compliance.

- Ensure that any FFPSA compliance activities are done in concert with the expansion and improvement of community-based care.
- Ensure that federal dollars received through the Family First Transition Act are directed toward building provider capacity and not to meet short-term needs or fill budget gaps.
- Utilize an independent, third-party efficiency audit to assess the effectiveness of services provided by DFPS, either directly or through contracted providers, for purposes of achieving FFPSA accreditation.

Resources

[*The Texas Two-Step: Community-Based Care and the Family First Prevention Services Act*](#) by Andrew C. Brown and Charissa Huntzinger, Texas Public Policy Foundation (July 2020).

[*“Family First Prevention Services Act”*](#) by National Conference of State Legislatures (April 2020).

[*DFPS Rider 15 Report for Community-Based Care*](#) by Texas Department of Family and Protective Services (March 2020).

[*Operating Budget for Fiscal Year 2020*](#) by Texas Department of Family and Protective Services (Dec. 2019).

[*Testimony Before the Texas Senate Finance Committee on Community-Based Care*](#) by Andrew C. Brown, Texas Public Policy Foundation (Feb. 6, 2019).

[*Community-based care: Bringing kids home \[Status Report\]*](#) by Our Community Our Kids (Feb. 2019).

[*“CPS Conservatorship: Children in DFPS Legal Responsibility”*](#) by Texas Department of Family and Protective Services, DFPS Data Book (2019).

[*“CPS Conservatorship: Removals”*](#) by Texas Department of Family and Protective Services, DFPS Data Book (2019).

[*Child Welfare Financing SFY 2016: A Survey of Federal, State, and Local Expenditures*](#) by Kristina Rosinsky and Sarah Catherine Williams, Child Trends (Dec. 2018).

[*“Texas delays implementing certain provisions of the Family First Prevention Services Act,”*](#) Texas Department of Family and Protective Services, DFPS Bulletin (2018).

[*The Bipartisan Budget Act of 2018*](#) (H.R. 1892).

[*The Community-Based Solution for Texas Foster Children*](#) by Brandon Logan, Texas Public Policy Foundation (March 2017).

[*“Find a Program or Service,”*](#) Title IV-E Prevention Services Clearinghouse (Accessed July 15, 2020).