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ARTICLE

# Leveraging the FFPSA for Older Youth: Prevention Provisions

The Family First Prevention Services Act provides many opportunities to transform the child welfare system into a system of support that is focused on prevention and strengthening families.

By Jenny Pokempner

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Signed on February 9, 2018, as part of the [Bipartisan Budget Act of 2018](#) (H.R. 1892), the Family First Prevention Services Act (FFPSA) has the potential to radically change child welfare systems across the country. Primarily by dictating how federal child welfare funds (Title IV-E) can be used, the FFPSA seeks to create a child welfare system that increases its investments in prevention services, so youth and families do not enter the system in the first place, and in family- and community-based services and placements, so youth who enter the system are more likely to find family and permanency. It is hoped that changing the way Title IV-E funds can be spent will lead to state systems that better reflect a vision of child welfare service delivery that prioritizes prevention, seeks to keep children with families in the community, and provides a more comprehensive service array for youth as they transition to adulthood.

For years, our federal financial structure has moved states in the direction of removal and placement and has done little to attack the use and overuse of group care. While financial incentives and disincentives are not the only movers of system change, they can be powerful ones. Title IV-E funds previously could be used for the cost of foster care maintenance for eligible children, administrative expenses to manage the program, training for staff and caregivers, adoption assistance, and kinship guardianship assistance. These funds could generally not be used for prevention services. This meant that the bulk of federal funds for child welfare systems could be used only once a child entered the system, and once they did, the same level of reimbursement was allowed for family-based settings and group care. In addition, in the past, federal funds to support youth in the transition to adulthood have been capped at age 21.

The FFPSA changes significantly how federal funds can be used by states. It allows states to use IV-E funds for certain prevention services with the goal of keeping youth and families out of state custody and placement. It also limits the use of IV-E funds to pay for group care with the goal of enhancing a placement and service array that keeps youth in the most family- and community-based settings with the goal of moving them toward permanency. In addition, the FFPSA allows states to use federal funds to respond to the reality and research that shows that the transition to adulthood lasts into a young person's mid-20s and that youth deserve support as they build their skills and pursue post-secondary education and training. To that end, the FFPSA allows states two options: to extend Chafee Program aftercare services to youth until age 23 if the state provides extended foster care (foster care past age 18) and to extend eligibility for education and training vouchers until age 26 for all states.

The FFPSA has the potential to drastically change the child welfare system in general, but the potential impact on older youth is significant. Not only are there large numbers of older youth in the child welfare system—[171,162 youth in foster care, or 25 percent](#)—but they make up a significant number of the youth who are in group care. 51 percent of these youth are aging out without being successfully reunified with their family or connected to another family through adoption or legal guardianship. It is clear that these youth are at great risk for poor adult outcomes because we have not collectively provided them the foundation of family and skills that every young person needs to succeed as he or she transitions to adulthood. Increasingly, older youth in foster care are receiving the attention they deserve, but identifying and implementing the policy and practice changes necessary to make a meaningful impact on their lives remains a challenge.

This three-part series—comprised of this article on prevention provisions and ones on [reduction of group care provisions](#) and [improving transitions](#)—takes a close look at how the FFPSA can be leveraged to bring benefit to older youth and suggests strategies to

ensure that plans for implementation of the law keep older youth as a priority and that the youth are not lost in the immense efforts to implement all provisions of the law. Several senators have written to the Children's Bureau to request that additional guidance be provided to the states so that they have the information and capacity to ensure that the law benefits older youth. These three articles follow the lead and challenge of the [Grassley letter](#) to make sure older youth are front and center in FFPSA implementation work. While the FFPSA provides some new leverage points through financing reform, it is acknowledged that broader policy, practice, and philosophy shifts are needed to transform how we serve older youth and to achieve the positive outcomes they deserve. We hope that these strategies help transform the work we are doing to a positive rather than a negative approach: a commitment to get young people to the most the connected placements in the community that can lead to permanency. Please note that this series of articles does not provide a detailed summary of the FFPSA. Instead it highlights the ways advocacy can be done around select provisions to improve outcomes and opportunities for older youth. A very helpful and detailed summary of the FFPSA has been published by the Children's Defense Fund: [The Family First Prevention Services Act: Historic Reforms to the Child Welfare System Will Improve Outcomes for Vulnerable Children](#) (Feb. 2018).

## Prevention Provisions

The FFPSA provides states, territories, and tribes the option to use Title IV-E funds for prevention services that would allow "candidates for foster care" to stay with their parents or relatives. Prior to this law, IV-E funds could be used only once a child was removed from the home. States will be able to define candidates for foster care, but generally this will include youth at risk of entering or reentering the foster care system from the home of a parent, relative, or legal guardian. This includes disrupted permanency arrangements (for example, a disrupted adoption). As the Grassley letter urges, "candidates for foster care" should include youth between ages 18 and 21 who are eligible to reenter care under state law. (While guidance on this issue was requested, advocates in states with reentry should include this in implementation discussions.)

Under the FFPSA, states will be reimbursed for prevention services for up to 12 months and can provide two types of prevention services: (1) mental health and substance abuse prevention and treatment services provided by a qualified clinician and (2) in-home parent skill-based programs, which include parenting skills training, parent education, and individual and family counseling. Services must be evidence-based (well-supported, supported, or promising) and trauma-informed to be eligible for reimbursement. This new use for IV-E funds can be a game changer and allows states to invest funds in and build capacity to prevent placement in meaningful ways.

In addition to being able to use IV-E for specific prevention services for "candidates for foster care," states can also use IV-E funds to provide prevention services to youth in foster care who are pregnant or parenting. States are still restricted to the two categories of prevention services listed above but can provide them to pregnant and parenting young people in foster care regardless of whether their child is system-involved or at risk for involvement. These services can be provided for up to 12 months from the time a youth is identified as being in need of services.

## Leveraging the Prevention Provisions for Older Youth

It is essential that states have the capacity to meet the needs of families with older youth if services are expected to truly prevent placement for teens and young adults. [About 30 percent of youth who entered the child welfare system in 2016 were age 11 or older, while 10 percent were age 16 or older.](#) As advocates are inquiring into their state's capacity to provide trauma-informed and evidence-based prevention programs, they should also be asking whether programs have the skill set and expertise to support families with teens and adolescents. For example, are the available in-home parenting skills-based programs able to help parents understand adolescent development and trauma and how to productively respond to youth? Are the individual and family counseling programs able to respond to the dynamics of parents, teens, and young adults? Developing effective prevention services for families with teens and young adults also includes understanding the reasons these youth are coming into care. While older youth, like younger children, usually come into care for multiple reasons, the most common reasons for older youth are the Adoption and Foster Care Analysis and Reporting System (AFCARS) categories of [neglect, child behavior problem, and caretaker inability to cope](#). Effective

prevention services for older youth will need to respond to these removal reasons and likely need to enlist the behavioral health system to formulate effective interventions. In addition, this is an area where getting feedback from youth and families about what they need—or needed—to remain together is essential. Advocates can play a key role in ensuring these voices are heard.

As mentioned above, for prevention services to be funded they must fall in the two service categories and they must be evidence-based (“promising,” “supported,” and “well-supported”). There is valid concern, including concern expressed in the Grassley letter, that there is a lack of programs targeting older youth that will meet the evidence-based criteria and that youth and families will not receive the benefit of the law because the research base is not yet where we need it to be. While we do advocacy at the federal level to see if federal guidance can provide some flexibility in this area, we recommend that advocates proceed to identify effective programs. If prevention programs that can meet the needs of families with older youth do not exist in sufficient numbers to meet the anticipated need, advocacy for issuing request for proposals (RFPs) is a recommended strategy. In addition, because the FFPSA funds only two categories of prevention services, advocacy for investment of state funds in prevention should be considered by advocates, especially to address the fact that entrance into the system is related to lack of income and housing to meet a child’s needs.

## Leveraging the Prevention Provisions for Expectant and Parenting Youth in Care

The FFPSA allows states to use IV-E funds for prevention services for pregnant and parenting youth in foster care. As the Grassley letter suggests, this should include mothers and fathers at any time while they are in care. [Youth in foster care have much higher rates of adolescent pregnancy and childbearing than their peers.](#) Having one or more children at a young age has been shown to be correlated with barriers to educational attainment and adds to the challenges that youth face when they are making the transition to adulthood from foster care. The opportunity to enhance the services that these youth receive could aid in improving outcomes and opportunities for young parents who are very much in need of specialized support.

FFPSA prevention funds can be used for expectant and parenting youth in care without their children being candidates for foster care. This is a powerful provision of the FFPSA that is at risk of getting lost in the important discussions around prevention in general. Advocates for older youth should make sure that stakeholders and policy makers are aware of this provision and that implementation planning includes how this provision will be leveraged to enhance the services and supports provided to expectant and parenting youth. There is often a lack of specialized services and placements for expectant and parenting youth in care, so these provisions could allow for specialized services that make a placement possible or make an existing placement more appropriate and supportive.

The Center for the Study of Social Policy (CSSP) has been leading efforts to improve our knowledge of and responses to expectant and parenting youth in foster care for many years and is continuing to provide expertise in implementing this provision of the FFPSA. In October 2018, CSSP released helpful FAQs on this issue and [should be looked to for rich information on services and approaches to working with expectant and parenting youth](#) in care. This way advocates can ensure that this provision is used to enhance the capacity of the system to support youth in care as parents and guard against their deeper involvement in the system as parents.

## Individual Advocacy Strategies

The FFPSA provides us new leverage through financing incentives and disincentives to move the child welfare system to a goal that is not new: a system that front-loads services to prevent system involvement and meets family’s needs in the community. Our pre-FFPSA federal and state laws contain many provisions that aim to get us to this result. We can use the excitement and attention around the FFPSA and the new tools it provides to reinvigorate legal advocacy through enforcement of existing laws. We think these strategies not only complement FFPSA implementation work but may expand efforts in the states to invest more in prevention and community- and family-based care. Below are a few examples for attorneys who represent children and parents to consider in their trial court and appellate advocacy.

- 1 **Enforce the reasonable efforts provisions.** Federal law requires the child welfare agency make reasonable efforts to prevent placement of children in foster care and to finalize the permanency plan if the child is placed. A recent [article](#) by Jerry Milner and David Kelly of the Children's Bureau reinforced the experience of many: The reasonable efforts provisions are not often invoked to leverage service delivery at the trial court or fair hearing level or at the appellate level, so that obligation can be clarified and enforced.
- 2 **Enforce the requirements for fair hearings.** Attorneys should advocate zealously for reasonable efforts to prevent removal or, if the facts warrant, for a finding that reasonable efforts have not been made. Federal law and [regulation](#) require that states provide a mechanism for fair hearings for denials of service and benefits under Title IV-E. Failure to provide appropriate pre-placement prevention services are among the issues that can be challenged in a fair hearing. Fair hearings provide an additional forum to consider challenges that could result in the improvement of prevention and reunification services for families with older youth who are not being served in a manner that responds to their needs. Because the FFPSA funds only two categories of prevention services and requires that they be evidence-based, the reasonable efforts requirement continues to be a vital legal requirement that can help ensure specific prevention services to families. When lawyers bring challenges in a coordinated way (such as organized efforts to identify cases for appeals and fair hearings), they can move jurisdictions to prioritize investments in prevention.
- 3 **Enforce laws around disposition for youth in care who are pregnant and parenting to ensure appropriate placements and services and to ensure respect for the parental rights of young parents.** All states have case law and statutory provisions to ensure that dispositions of dependent children meet their needs and serve their best interests. These should be used to force the provision of services that support older youth as emerging adults and as parents. When a youth in care has a child, the disposition must serve the needs of the changed status of the dependent child in terms of services and placement. If the placement and services are not appropriate and are not supporting the youth as a youth and as a parent, they should be challenged as not consistent with the law. In addition, any efforts to remove a dependent child's child or infringe on the dependent child's legal rights as a parent, either because she is in foster care or because of a lack of placement that can serve both, should be vigorously challenged at the trial court level and on appeal.

It is clear that the FFPSA provides many opportunities to transform the child welfare system into a system of support that is focused on prevention and on supporting and strengthening families in the community. If we can achieve this goal, it will benefit all families, including families who are or can support and nurture older youth. The attention to older youth and the development of law and policies that support the transition to adulthood of youth in foster care have increased over time. Far too often, though, it seems that our laws and policies put attention on the challenges older youth face, but that reforms are not implemented in ways or at the scale needed to achieve the desired results: large numbers of youth achieving permanency and successfully transitioning to adulthood. The combined force of Fostering Connections to Success and Increasing Adoptions Act of 2008, the Strengthening Families Act, and the FFPSA should result in better outcomes for older youth. We hope this series of articles continues the discussion among advocates so that we can collaborate and plan for systematic and individual advocacy on behalf of older youth.

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