



**Testimony of**

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## **Introduction**

Chairman Wyden, Ranking Member Crapo, and distinguished Members of the Committee, thank you for the opportunity to appear before you today on behalf of the U.S. Department of Health and Human Services (HHS). My name is Rebecca Jones Gaston, and I am the Commissioner for the Administration for Children and Families' (ACF) Administration on Children, Youth and Families (ACYF), which includes the Children's Bureau (CB).

I am pleased to have the opportunity to join you today to share progress on implementing the landmark, bipartisan, Family First Prevention Services Act (FFPSA or Family First), provide updates on jurisdictions' continued adoption of the provisions, share some barriers and challenges those jurisdictions are facing, and describe CB's technical assistance and rulemaking efforts to deepen the uptake of Family First and realize its intent of preventing unnecessary entry of children and families into the child welfare system.

## **ACF Priorities**

Children do best with their own families. ACF's priorities reflect a commitment to supporting parents, caregivers, and children through holistic and proactive approaches that focus on keeping families together and preventing unnecessary involvement with the foster care system. I hear routinely from youth and families from across the country that have experienced the child welfare system that many of their families could have stayed safely together if support for their family's housing, child care, mental health, substance use services, and/or other concrete needs had been met. As we continue to prioritize prevention and family unity, ACF remains committed to having our policies and programs be informed by the lived experience of those families and communities who have interacted with the child welfare system.

A systemic shift of this magnitude takes time and cannot be done solely at the federal level. Together, we are working with states and Tribes to shift the focus of child welfare systems from separating children from their families as the only response to building more family preservation and prevention. One key way ACF does this is by continuing to help states and Tribes implement Family First. ACF is also focused on strengthening other systems that can meet the needs of children and families, recognizing that the child welfare system alone cannot support family well-being. For example, last year the Family and Youth Services Bureau's Runaway and Homeless Youth program funded 11 brand new prevention demonstration grants to support the design and delivery of community-based initiatives, including flexible cash assistance and youth-specific case management services, to prevent youth and young adults from experiencing homelessness. The Office of Family Assistance is undertaking an opportunity afforded by Congress and authorized under the Fiscal Responsibility Act of 2023 to pilot measuring impact of upstream economic support programs like Temporary Assistance to Needy Families (TANF) on building family resilience and lowering risk of adverse outcomes such as child welfare involvement. Further, in 2022, CB and the Office of Child Support Services provided guidance to state agencies to limit the practice of collecting child support from families when children are in foster care, allowing families to address concrete support needs to keep families together.

Addressing the child care needs of families is also a strategy to prevent unnecessary child welfare involvement. The President's fiscal year (FY) 2025 budget proposes major investments to increase accessibility and reduce child care costs, guaranteeing affordable, high-quality child care from birth until kindergarten, with most families paying no more than \$10 a day and the lowest income families paying nothing at all. Further, the proposal in the President's FY 2025

budget to restore the full Child Tax Credit expansion enacted in the American Rescue Plan, which helped cut child poverty nearly in half in 2021 to its lowest level in history, would make significant strides in meeting the concrete needs of families. Research has shown policy changes like this reduce child welfare involvement.

### **Implementation of the Family First Prevention Services Act**

Jurisdictions across the country have capitalized on the non-mandated opportunity provided through Family First to dramatically re-think how they serve children and families. Family First provides an impetus to focus attention on prevention, work with families and communities differently, and support families' strengthening of their protective and nurturing capacities. Family First is changing the conversation about what the foster care system should be: an emergency room, built to respond to an emergent child safety concern. It is not the system that can best meet long-term well-being needs for children and families, and it certainly cannot solve poverty. The Children's Bureau's Child Maltreatment 2022 report showed that 74 percent of victims associated with investigations had neglect as the allegation or among the allegations associated with their investigation. A significant portion of those cases are not about willful neglect, but about the challenges of poverty, such as unstable housing, food insecurity, unmet health needs. That is why we are leveraging Family First's focus on foster care prevention and building collaborations across systems and communities, so that children and families get what they need and do not need the child welfare system's emergency room.

The implementation of Family First across the country is promising but there is more work to do. I'm delighted to share that CB has approved 47 Family First prevention plans—38

during this Administration—including 42 states, the District of Columbia, and four Tribes. Many of those jurisdictions have begun implementation and are submitting plans that improve their services. Five additional jurisdictions have submitted plans to participate and we are working with them toward approval. The Children’s Bureau has been in close contact with the remaining jurisdictions that have not submitted plans to offer support in developing and submitting plans. Tribes in particular have pointed to resource constraints, administrative requirements, and the lack of culturally specific practices in the title IV-E Prevention Services Clearinghouse (Clearinghouse) as barriers to taking up this option. Tribes also note that current law requires them to administer a title IV-E foster care program in order to be able to have a Tribe-specific prevention plan. We understand that Tribes are hesitant to stand up a federal foster care program, just to prevent family crisis.

It is important to emphasize that Family First is still a relatively new, optional program compared to the foster care program. Developing a comprehensive prevention plan takes time and child welfare agencies continue to manage unprecedented workforce and leadership challenges and changes. The Children’s Bureau is committed to working with jurisdictions as they move from planning to implementation, providing technical assistance and support. ACF is continuously looking at ways to expand approved prevention services and interventions and the training and technical assistance available to implement them.

Despite these challenges, financial claiming data confirms that implementation of the title IV-E prevention program is steadily increasing nationally. For instance, in FY 2022, 17 states and one Tribe received just over \$64 million in federal reimbursement for the program. Total title IV-E prevention program federal share claims from FY 2020 through the first quarter of FY 2024 are now approximately \$340.4 million.

The title IV-E Prevention Services Clearinghouse (Clearinghouse) is a critical component to the successful implementation of Family First and the expansion of evidence-based practices in foster care prevention programs. The Clearinghouse continues to review programs and services as quickly as possible to support this expansion. As of May 2024, the Clearinghouse has received recommendations for more than 800 programs and services for review. Of these, the Clearinghouse has reviewed 177 programs and services of which 85 were rated as promising, supported, or well-supported.

The implementation of the title IV-E prevention program has revealed potential limitations of the law that impact some jurisdictions more so than others, particularly Tribes. For instance, some Clearinghouse requirements prescribe methods of evaluation that are not commonly used to evaluate Tribally specific interventions. There is a critical need for more programs that are tailored to support families in a way that aligns with their cultural values, including Tribal families, and ACF is doing what we can to expand the number of culturally responsive prevention programs in the Clearinghouse. Further, the definitions of well-supported, supported, and promising practices in Family First have impeded automatically using other existing clearinghouse reviews of interventions for the Prevention Clearinghouse. Notably, the \$4 million reduction in funds to support the Clearinghouse, evaluations of programs and services, and evaluation technical assistance in FY 2024 significantly reduces ACF's ability to support evidence generation and reviews.

ACF is currently revising the *draft Handbook of Standards and Procedures, Version 2.0* (Handbook 2.0) for the Clearinghouse. Revisions aim to be responsive to the diversity of comments received from the public in response to the October 2023 Federal Register Notice to enhance the transparency of the systematic review process, and to support efforts to advance

equity in accordance with the *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. Comments are being considered within the context of the statutory requirements of FFPSA, the necessity to conduct a systematic, objective, and transparent evidence review, and resource considerations.. ACF is working to complete and finalize this work as soon as possible, with a release of the *Handbook 2.0* in the coming months to support a more transparent, efficient, and timely review of programs and services. ACF appreciates the congressional support for the Clearinghouse, including from members of this Committee, and looks forward to continued support and investment from Congress to help ACF ensure it is a transparent and trusted source of evidence that can assist states', territories', and Tribes' efforts to support children and families and prevent foster care placements.

CB has seen great progress around the country among jurisdictions that have developed prevention plans under FFPSA to expand the in-home parenting skills programs, mental health programs, and substance use prevention and treatment programs in their communities. Collectively, approved state, territory, or Tribal plans include over 240 programs and services that create pathways for child welfare agencies to support families and prevent the trauma of family separation.

All jurisdictions with approved prevention plans are required to submit data on the number of children who received services, type of service and if program participants enter into foster care. These data submission requirements phase-in over time dependent on the date of plan approval, so while no public data related to reduction of foster care entries is available to date, we will have the ability to report on this in the future. CB continues to offer targeted support to states, territories, and Tribes to guide their data reporting procedures and to improve the data

quality of the title IV-E Prevention Services Data. Notably, some states have undertaken their own evaluative efforts regarding their implementation of Family First. One evaluation conducted for the Kansas Department for Children and Families, for instance, found that from October 2019 through June 2023, 89 percent of target children and youth who have reached 12 months from the time of service referral remained together with their families at home without need for foster care.

Ultimately, the unprecedented workforce and leadership challenges and changes that create hurdles for Family First implementation are not unique to child welfare. The Children's Bureau has provided significant support to state and local child welfare agencies struggling to find solutions to the workforce crisis through the National Child Welfare Workforce Institute and the newly launched Center for Workforce Equity and Leadership, but the rest of the human service sector is experiencing the same workforce challenge which impacts availability of services.

A comprehensive system of care is needed to meet the needs of children and families well before engagement with child welfare. Child welfare agencies cannot be solely responsible for meeting the needs of children with high behavioral health needs and simply increasing beds in congregate settings will not solve the issue either. Too often child welfare agencies are left to care for children with complex needs when an appropriate array of clinical placements and services does not exist in the community.

For our part, ACF is building stronger relationships and collaborative efforts across HHS and other federal agencies. Through these partnerships, we are strategizing to bring our collective resources to bear on the significant challenge of getting children and families the services they need where they need it, when they need it, and how they need it, to prevent



unnecessary child welfare involvement and support stability and permanency in order to exit foster care.

## **Regulatory Action**

Family First underscores the importance of keeping families together. ACF is advancing this priority by strengthening kinship care and family connections even when child welfare involvement cannot be entirely prevented. Recent regulatory actions by the Biden-Harris Administration will have a profound impact on child welfare systems in America and demonstrate this priority by removing barriers to kinship care, increasing access for families to legal representation, and promoting fairness in the child welfare system.

### *Kinship Final Rule*

ACF believes that families belong together. Today, millions of children across America are primarily cared for by grandparents, aunts and uncles, and other relatives, who provide a safe and loving home when parents cannot. Research emphasizes the benefits of keeping children with their own relatives when parents are unable to take care of them, highlighting the importance of close connections, preservation of cultural identity, and enhanced placement stability compared to non-relatives. But when children go live with family members, it is most often in emergency situations which may result in unanticipated expenses. Data demonstrates that many relatives who care for their family members are more likely to experience poverty and have higher needs for services and supports—circumstances in which financial support can make all the difference.

On September 27, 2023, HHS issued a final regulation to allow states to remove barriers for kin caregivers to become licensed foster care providers, and therefore receive full financial support from the state, by creating separate licensing standards for kin caregivers. Previously, all foster homes needed to meet the same licensing standards, whether the caregiver was family or not. While everyone, including kin caregivers, will continue to be subject to criminal background checks and other critical safety requirements, states can now create a new standard that recognizes that when family steps in, they should have a simple and straightforward path to receiving full financial support. Each jurisdiction will need to assess whether and how to operationalize this opportunity. To date, CB has already approved five states and three Tribes to operate licensing standards designed for relative providers and plans submitted by three additional jurisdictions are under review.

#### *Legal Representation Final Rule*

All families, regardless of income or access to resources, deserve a fair chance to stay together. Many families that come to the attention of a child welfare agency are in the midst of or recovering from familial, health, housing, or economic challenges in the form of civil legal proceedings that can directly impact the family's ability to stay together or be reunified. Families navigating these related, critical legal proceedings are sometimes forced to do so without access to a lawyer. Research demonstrates that providing independent legal representation to parents and caregivers in civil legal proceedings prevents children from entering foster care as well as improves rates of reunification.

The second final rule, published on May 10, 2024, allows for financial reimbursement to help cover costs of an attorney providing independent legal representation for a child who is

eligible for title IV-E foster care or that child's parent or kinship caregiver in civil legal proceedings as part of the foster care plan. The rule also allows for legal representation for an title IV-E agency, any other public agency, or Tribe that has an agreement in effect under which the other agency has placement and care responsibility of a title IV-E eligible child; and would provide legal representation of an Indian child's Tribe when the child's Tribe intervenes in any state court proceeding for the foster care placement or termination of parental rights of an Indian child who is in title IV-E foster care.

#### *Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children*

When children cannot stay safely with their own families, they deserve a foster care placement free of harassment, mistreatment, or abuse where they can thrive. This is true for all children. And LGBTQI+ children face disproportionately worse outcomes and experiences in foster care due to their specific health and well-being needs often being unmet. Which is why on April 30, 2024, HHS issued a final rule on the Designated Placement Requirements Under titles IV-E and IV-B for LGBTQI+ Children. The final rule requires title IV-E and title IV-B agencies to have sufficient placements designated to meet the needs of LGBTQI+ children in foster care. The rule does not require any provider to become a designated placement and respects Federal protections for religious freedom, conscience and free speech.

Recognizing the vital role of kin caregivers in the child welfare system, ACF clarified in the final rule that title IV-E and IV-B agencies are encouraged to continue to improve access to kinship care alongside implementing the requirements of this regulation. Indeed, ACF anticipates that children who enter foster care because of a conflict with family over their LGBTQI+ status or identity may have a supportive relative who is willing to serve as a kin caregiver. ACF

strongly encourages title IV–E and IV–B agencies to identify or develop resources, training, and support they can offer to kin caregivers to meet the specific needs of LGBTQI+ children.

### **Increasing the Impact of Family First Goals**

Congressional support for the goals of Family First has been integral to its implementation by states, territories, and Tribes to date. The President’s FY 2025 budget includes additional opportunities for further strides toward meeting these goals. Specifically, the President’s FY 2025 budget includes proposals to:

- reauthorize, increase funding for, and amend the Promoting Safe and Stable Families Act (PSSF), providing resources needed to:
  - further shift toward a prevention-oriented child welfare system that centers child and family well-being at every step of the process;
  - expand the number of Tribes eligible to receive PSSF grants; and
  - expand the reach of the evidence-based Regional Partnership Grant program to better address the intersection of substance use disorders and child welfare involvement in more communities around the country;
- increase the Community-Based Child Abuse Prevention program funding to \$90 million to continue to develop and coordinate effective community-based family support and prevention services and expand culturally responsive supports and resources to historically underserved and marginalized communities as well families adversely affected by persistent poverty, which are disproportionately represented in the child welfare system;

- increase federal reimbursement rates for the title IV-E Prevention Services Program and title IV-E Kinship Navigator Programs;
- make permanent a previously authorized temporary flexibility under the Prevention Services Program requiring states to spend at least 50 percent for services with a Clearinghouse rating of either “supported” or “well-supported,” rather than requiring that 50 percent be spent for “well-supported programs” only;
- allow up to 15 percent of a state’s Prevention Services funding to be spent on emerging or developing services that do not currently meet the ratings criteria;
- allow for increased Tribal and cultural adaptations of approved prevention services programs; and
- allow Tribes that participate in the title IV-B, subpart 1 Child Welfare Services program, but do not currently participate in the title IV-E foster care and adoption assistance programs, to submit a plan to directly operate the title IV-E Prevention Services program.

I urge Congress to consider these proposals as opportunities to further realize the intent and increase the impact of the Family First Prevention Services Act.

## **Conclusion**

Thank you for this opportunity to discuss the mission and work of ACYF to better serve children, youth, and families. I look forward to continuing to work with Congress as part of our collective efforts to achieve our shared goal of preventing children from unnecessarily entering foster care, keeping families together, and working across systems to increase the safety, permanency, and well-being of all children and families.