

How TX Early Childhood Advocates Can Leverage the Family First Act

This brief outlines ways that Texas early childhood policy stakeholders can use the next 12-18 months to advocate for 1) recognizing families' child care needs in the state's plan for implementing the federal Family First Act, and 2) leveraging the Act to invest in services for young children and their families.

The Family First Act is Changing Federal Foster Care Funding for States

In 2018, Congress passed bipartisan, federal legislation called the Family First Prevention Services Act (FFPSA), changing the way the federal government finances state child welfare systems. Two changes are particularly noteworthy:

- 1) The law establishes new restrictions on placing children in foster care in group or institutional settings, also known as "congregate care," with exceptions for highly-specialized congregate care providers. As a result, Texas needs to recruit more foster families, kin, and adoptive parents to reduce its current reliance on congregate care.
- 2) Texas will be able to receive federal funding for certain evidence-based prevention services for parents and/or children aimed at keeping more children safely with their biological parents and out of foster care.

It Will Have a Significant Impact on Children Under Age Six

Young children are particularly vulnerable to child maltreatment and involvement with the child welfare system.¹ **In fact, children under age six accounted for the majority (58 percent) of children who entered foster care in Texas in 2018.**²

The Family First Act offers Texas an opportunity to address two reasons that many children under six are placed in foster care by:

- 1) expanding substance use treatment for parents who could face Child Protective Services (CPS) removals of their children, and
- 2) increasing support for teens in foster care who are pregnant or parenting their own children.

Data on CPS removals highlight the importance of these opportunities for our youngest children in Texas:

- A large proportion of **all** the children in Texas foster care (42 percent) in 2018 were under age six **and** entered the system at least partially because of a parent’s drug or alcohol use.³
- Over the last three years, 112 infants born to youth in foster care entered foster care themselves before their first birthday.⁴

Stakeholders Should Ensure Early Care and Education are Included in the State’s Planning for the Family First Act

Child care plays a key role in multiple stages of the state’s child welfare system. Child care is particularly relevant to recruiting foster parents or kinship caregivers, which is critical for successful implementation of the Family First Act in Texas.

1. When families have access to child care, they are less likely to become involved with CPS in the first place, according to federal research.⁵
2. When CPS responds to a report of neglect or abuse, it often provides families with “protective day care” to keep children safely connected to their biological parents. The program allows children to stay out of foster care and keeps children under safe supervision while parents work, obtain an education or vocational training, search for employment, or receive needed mental health or substance use treatment services.
3. When CPS or state contractors seek to recruit and retain adoptive parents, foster parents, or kinship care providers (i.e., relatives who agree to take in children), offering child care is an important tool. For example, the private contractor managing foster care in the Fort Worth area successfully recruited more foster families for young children by prequalifying foster parents for child care services before they took a child into their home.⁶

Yet, significant gaps remain. For example, despite their eligibility for Head Start, research suggests that children involved in states’ child welfare systems have low enrollment in early care and education and particularly in high-quality child care options.⁷ Low enrollment in some cases could relate to bureaucratic hurdles and caregivers’ limited knowledge about eligibility or child care options, although across the state there is a high unmet need for subsidized child care.⁸

To comply with the Family First Act’s restrictions on the use of congregate care in foster care, Texas will need to recruit more foster parents, kinship care providers, and adoptive parents — and child care must be part of the strategy.

To meet this goal, stakeholders should encourage state leaders to:

- 1) *Ensure options for early care and education are included in the new kinship navigator program that Texas is developing.*

The Family First Act provides an opportunity to better support relatives who step up to take care of children involved in the child welfare system through “kinship navigator programs.” These programs help grandparents, uncles, aunts, or other relatives connect with other kinship caregivers for support and understand and locate various benefits and services.

- 2) *Work to meet the broader goal of expanding the availability of safe, high-quality child care in Texas.*

Access to early care and education can help keep more children safe, ensure more children have a stable living arrangement with a suitable caregiver, and enhance child well-being. Each of these goals are important to keep children safely out of foster care and to help children thrive if it is necessary to remove a child from a dangerous home and place him or her in foster care.

Stakeholders Should Help Secure Additional Family First Act Funding for Services that Support Our Youngest Texas Children

New federal funding available under the Family First Act could support:

- home visiting programs;
- substance use treatment for caregivers;
- mental health treatment for caregivers;
- behavioral health services that address trauma and support early brain development for children, including services for infants and toddlers; and
- supports and services for parenting youth in foster care.

To ensure Texas maximizes this opportunity, stakeholders should encourage the Texas Department of Family and Protective Services (DFPS, the parent agency to CPS) to:

- 1) *Identify early childhood programs or services for the state’s proposal to the federal government for drawing down child welfare funding under the Family First Act (i.e., the “Texas IV-E plan”).*

The state’s current planning efforts appear to be focused on services for parents, but many evidence-based practices for both children at risk of entering foster care and their caregivers could be funded with IV-E dollars, if included in the state’s plan. For example, the state could use IV-E funding to expand home visiting programs in Texas. The state needs help identifying more programs or services that will meet the federal criteria for reimbursement and support early brain development and infant and toddler mental health.

- 2) *Ensure those identified programs are in the state's recommendations of what the federal government should include in its new clearinghouse of evidence-based practices eligible for funding under the Family First Act.*

Currently, the new clearinghouse only includes three programs that target infants and toddlers: Nurse Family Partnership (which can likely only be funded for pregnant and parenting youth in foster care through the Family First Act), Parents as Teachers, and Healthy Families America.

- 3) *Broaden the state's definition of foster care candidacy to ensure more infants, toddlers, and their families can benefit from prevention services under the Family First Act.*

Caregivers and children will be eligible for Family First Act prevention services if the child meets the criteria for "foster care candidacy,"⁹ which states have flexibility¹⁰ to define. Currently, DFPS uses a very narrow definition for foster care candidacy that only applies to children and families receiving support through the agency's Family Based Safety Services (FBSS), which served over 82,000 children¹¹ and over 30,000 families¹² in 2018. Although most children who enter foster care are under 6, only 48 percent of the children who benefited from FBSS services were under 6.

By broadening the definition, DFPS could leverage Family First Act funding to serve many more high-risk families — such as new mothers or pregnant women with substance use disorders or some of the families that CPS investigates without placing in FBSS. A broader definition would likely require direction from the Legislature.

There's a Short Timeline for the Family First Act and Stakeholder Engagement

- **October 1, 2019:** The Family First Act went into effect. However, Texas delayed implementation by two years, as allowed by the law.
- **By September 1, 2020:** DFPS must develop and submit to the Legislature a strategic plan for implementation of the law.
- **Date TBD in 2020:** Per a joint interim charge, three Texas House Committees should hold a hearing on the Family First Act (the Appropriations Subcommittee on Article II, Human Services Committee, and Public Health Committee).
- **January - May 2021:** 87th Texas legislative session.
- **September 1, 2021:** Most new funding and policy changes from the 87th legislative session will take effect.
- **October 1, 2021:** The Family First Act will go into full effect in Texas, just one month after most new state laws and funding are implemented. The tight timeline underscores the urgency of stakeholders engaging in the process as early as possible.

To engage in the DFPS strategic planning process for the Family First Act, stakeholders can sign up for updates from the agency and find opportunities to weigh in on their webpage: bit.ly/DFPSFamilyFirst.

To stay up-to-date on the Family First Act and engagement opportunities, contact Kate Murphy at kmurphy@txchildren.org.

References

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- ⁸ Children at Risk, Child Care Desert Map, (Sept. 2018), available at <https://childrenatrisk.org/childcaredeserts/>.
- ⁹ Tex. Dep't of Family & Protective Servs., Child Protective Services Handbook, 12550 Foster Care Candidacy (FCC) Determination for FBSS (Jun. 2019), available at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x12000.asp.
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