

# SENATE BILL REPORT

## SB 5826

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As Passed Senate, March 5, 2019

**Title:** An act relating to implementing the family first prevention services act, P.L. 115-123, regarding expansion of services to children and families.

**Brief Description:** Maximizing federal funding for prevention and family services and programs.

**Sponsors:** Senators Darneille, O'Ban, Kuderer and Nguyen; by request of Department of Children, Youth and Families.

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 2/07/19 [DP-WM].  
Ways & Means: 2/18/19, 2/25/19 [DP].

**Floor Activity:**

Passed Senate: 3/05/19, 44-0.

**Brief Summary of Bill**

- Expands the use of federal funding to provide foster care prevention services, increase placements in family settings, and encourage family reunification.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

**Staff:** Alison Mendiola (786-7488)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle,

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

**Staff:** Maria Hovde (786-7474)

**Background:** Title IV-E Funding. Under Title IV-E of the Social Security Act, states, territories, and tribes are entitled to claim partial federal reimbursement for the cost of providing foster care, adoption assistance, and kinship guardianship assistance. This funding provides support for monthly payments on behalf of eligible children, as well as funds for related case management activities, training, data collection, and other costs of program administration.

Families First Prevention Services Act. The Families First Prevention Services Act (FFPSA) was passed and signed into law as part of the Bipartisan Budget Act on February 9, 2018.

The purpose of FFPSA is to:

- provide enhanced support to children and families; and
- prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.

Prevention Services and Programs. Beginning October 1, 2019, a 50 percent match of Title IV-E funds will be allowable for foster care prevention services and programs that are directed to all children, and their families, who are at imminent risk of entering foster care, including those children who are in kinship care settings and those children whose adoption or guardianship arrangement is at risk of disruption or dissolution. Prevention services delivered to current foster youth who are pregnant or parenting will also be eligible for these federal funds.

Eligible prevention services and programs include mental health and substance abuse treatment services provided by a qualified clinician, and in-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling.

To be eligible for federal funds, prevention services and programs:

- are limited to not more than 12 months;
- must have a framework that is trauma-informed; and
- must be identified as a (1) promising practice, which would be determined by the outcomes of at least one study rated as being-well designed and utilizing a control group, (2) supported practice, which would be determined by the outcomes of at least one study rated as being a well-designed, rigorous, and randomly-controlled trial or other quasi-experimental research design, or (3) well-supported practice, which would be determined by the outcomes of at least two studies rated as being well-designed, rigorous, and randomly-controlled trials, or other quasi-experimental research design, with at least one study illustrating a sustained effect for one year or more; 50 percent of expenditures are earmarked for well-supported programs.

Kinship Navigator Program. Beginning October 1, 2018, the FFPSA allows the use of Title IV-E funds for evidence-based kinship navigator programs for children who are in, or are at

risk of entering, foster care. This program assists kin caregivers in finding and using services necessary to support their efforts to raise a relative's child. According to the Department of Social and Health Services, more than 47,000 individuals in Washington State are caring for one or more relative children out of a total of 51,000. Kinship navigators are currently available in 30 counties.

Foster Care Placements. After a two-week grace period, the use of Title IV-E maintenance payments are prohibited for placements that are not:

- family foster homes, including relatives;
- placements for pregnant or parenting youth;
- supervised independent living for eighteen or more years of age;
- qualified residential treatment programs; or
- specialized placements for youth who are at high risk of becoming sex trafficking victims.

Qualified Residential Treatment Program. The FFPSA limits the use of Title IV-E funds to no more than 12 months of foster care maintenance payments for children who are placed in a residential treatment program, or for children who are placed with a parent residing in a licensed, residential family-based treatment facility for substance abuse, provided the facility:

- is licensed and accredited;
- has a trauma-informed treatment model and licensed clinical staff onsite;
- provides parental skills training, parental education, and individual and family counseling; and
- provides discharge planning and family-based, after-care support for at least six months after release.

Within 30 days of a child being placed in a Qualified Residential Treatment Program (QRTP) setting, an assessment must be completed to determine if the child's needs can be met with family members or in a family foster home. After placement in a QRTP, if it is determined a child would be more appropriately placed elsewhere, federal funds can be used for an additional 30 days to transition the child to another placement.

The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and the Council on Accreditation (COA) are the accreditation agencies currently recognized by the federal government under FFPSA. The FFPSA allows the federal government to approve any other independent, not-for-profit accreditation organization.

Other Provisions. Maintenance of Effort state expenditures for foster care prevention is required to be no less than the amount of state expenditures, including local funds, in federal fiscal year 2014.

The current 15-month time limit on funds for family reunification services for children in foster care is eliminated, and 15-months of family reunification services will be accessible to a child who has returned home.

No later than October 1, 2027, states are required to use an electronic interstate case-processing system to help expedite interstate placement of children in foster care

Effective October 1, 2018, The Department of Health and Human Services (HHS) will identify reputable model licensing standards for family foster homes. No later than April 1, 2019 states must verify whether their licensing requirements meet these standards and whether standards are waived for relative family foster homes, and if not, the reason why.

States will need to include in their state plan assurances that the state will not enact or advance policies or practices that will result in significant increases to the number of youth in the juvenile justice system resulting from the new restrictions on federal reimbursement.

Extends the financial, housing, counseling, employment, education, and other supports and services provided to former foster youth from age twenty-one to age twenty-three.

Extends eligibility from age twenty-three to age twenty-six for Education and Training Vouchers, as well as eligibility for these vouchers to youth who experienced foster care at fourteen years of age or older.

Temporarily suspends, from January 1, 2018, to June 30, 2024, the allowance of federal reimbursement for adoption of all children with special needs, rather than just those who are income eligible.

**Summary of Bill:** Changes are made to the dependency and child welfare statutes to conform with federal requirements within FFPSA.

A child who is in foster care, or who is a candidate for foster care, may receive prevention and family services and programs.

Definitions. A "child who is a candidate for foster care" means a child the Department of Children, Youth and Families (DCYF) identifies as being at imminent risk of entering foster care and for whom there is a reasonable cause to believe any of the following circumstances exist:

- the child has been abandoned by the parent and the child's health, safety, and welfare is seriously endangered as result;
- the child has been abused or neglected and the child's health, safety, and welfare is seriously endangered as a result;
- there is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development; or
- the child is otherwise at imminent risk of harm.

"Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under FFPSA.

A "relative" includes persons related to a child in the following ways:

- (a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
- (b) Stepfather, stepmother, stepbrother, and stepsister;

- (c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;
- (d) Spouses of any persons named in (a), (b), or (c), even after the marriage is terminated;
- (e) Relatives, as named in (a),(b),(c), or (d) of any half sibling of the child; or
- (f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a 24-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

The definition of "group care facility" is modified to include, but not be limited to:

- (a) qualified residential treatment programs;
- (b) facilities specializing in providing prenatal, post-partum, or parenting supports for youth; and
- (c) facilities providing high-quality residential care and supportive services to children who are, or are at risk of becoming, victims of sex trafficking.

A "qualified residential treatment program" means a program licensed as a group facility that also qualifies for federal funding under the FFPSA and meets the following requirements:

- use a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, for children with serious emotional or behavioral disorders or disturbances;
- be able to implement treatment for the child that is identified in an assessment that (1) is completed by a trained profession or licensed clinician who is a "qualified individual" as defined in the FFSPA, (2) assesses the strengths and needs of the child and (3) determines the child's needs can be met with family members or through placement in a foster family home or, if not, which available permanent placement setting would provide the most effective and appropriate level of care for the child in the least restrictive environment while being consistent with the child's permanency plan.

The court shall review the QRTP placement assessment within 60 days and either approve or disapprove it. For children who remain in a QRTP, DCYF must submit evidence demonstrating that the QRTP remains the appropriate setting.

Social Study. The written evaluation of the disposition of the case, known as a social study, must contain the following:

- a statement of the specific harm to the child that intervention is designed to alleviate;
- a description of the specific prevention services that are needed for both the parents and the child, the rationale for why these services are likely to be useful, the availability of proposed services, and the agency's overall plan for ensuring services will be delivered;
- if removal is recommended, a full description of the reasons why the child cannot be adequately protected in the home, including descriptions of the efforts to maintain the child in the home; and
- upon receiving a report that a child is a candidate for foster care, DCYF may provide prevention and family services and programs to the child's parents, guardian, or

caregiver. DCYF may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs.

Other Provisions. For those receiving prevention services and program assistance under the family assessment response, services are not limited to 45 days and may be extended up to one year, within DCYF's appropriations.

Family preservation services may be provided for up to 15 months following the child's return home to facilitate the safe and timely reunification of the family and to ensure the strength and stability of the reunification.

DCYF may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs.

The age limit on the authority of DCYF to provide independent living services is extended from age twenty-one to age twenty-three for youth who are, or have been, in DCYF's care and custody, or who are or were non-minor dependents.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Draft Bill (Human Services, Reentry & Rehabilitation):** PRO: This bill presents an opportunity to take advantage of federal money for prevention. This federal legislation is the best thing that has ever happened in child welfare. For those who provide evidence-based programs, we look forward to expanding services. Families First makes changes to congregate care and its requirements with higher standards. This will be a lift for some smaller agencies to be in compliance, but we are working with DCYF to determine what accreditation is needed. Families First is about keeping kids with their families. For example, federal funds can be used for home visiting services which right now are paid 100 percent through general fund-state dollars. Funds can be used to support a family that is reunified with a child. There is money to provide services to prevent foster care which is very significant in addressing racial disproportionality. DCYF has been great to work with through this process. One thing to consider as DCYF submits its state plan is the two-tier model for who will be targeted for services. Right now, homeless youth are tier two, and it would be great if they could be tier one.

**Persons Testifying (Human Services, Reentry & Rehabilitation):** PRO: Laurie Lippold, Partners for Our Children; Jill May, Washington Association for Children and Families; Jim Theofelis, A Way Home; David Del Villar Fox, DCYF.

**Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation):** Erica Hallock, Fight Crime: Invest in Kids.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This new federal law is exciting and allows us to provide services that the family needs to prevent placement in foster care by expanding the use of Title IV-E funds. We will see less need to place children in out-of-home care which will facilitate us catching up on recruitment of qualified foster homes so that we are in less of a crisis. We are well positioned in our state to take advantage of this act and this will help in our efforts to meet the broader mission of DCYF. Up until this Act, no IV-E dollars could be spent on prevention services. The funds could only be used once a child went into foster care. There was a rate study on Behavioral Rehabilitation Services last Fall. The Governor's budget has about \$26 million to fund Behavioral Rehabilitation Services but the rate study says the cost is actually twice that amount. It is important that we tackle this issue so that reimbursement rates can be based on the costs of care and ideally so that fewer children can be placed in out of state facilities and we can strengthen the resources within the state. There will be some difficult funding decision to be made to make sure we do not miss the opportunity here to hire the people up front to provide the prevention services that are required. The additional requirements for congregate care involves accreditation and higher levels of clinical staffing. This will increase costs to Secret Harbor by about \$30,000 in 2019 in an overall \$3 million budget.

**Persons Testifying (Ways & Means):** PRO: Senator Jeannie Darneille, Prime Sponsor; Brian Carroll, Washington Association for Children and Families; Frank Ordway, DCYF.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.